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

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

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

R E P O R T

[To accompany H. Res. __]

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

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for the consideration of the Senate amendment to H.R. 1314, the Trade Act of 2015. The resolution makes in order a motion offered by the chair of the Committee on Ways and Means or his designee that the House concur in the Senate amendment to H.R. 1314. The resolution waives all points of order against consideration of the motion. The resolution provides that the Senate amendment and the motion shall be considered as read. The resolution provides one hour of debate on the motion equally divided and controlled by the chair and ranking minority member of the Committee on Ways and Means. The resolution provides that the question on adoption of the motion shall be divided as follows: (1) concurring in section 212 of the Senate amendment; (2) concurring in the matter comprising the remainder of title II of the Senate amendment; and (3) concurring in the matter preceding title II of the Senate amendment. The

resolution provides that the first portion of the divided question shall be considered as adopted. The resolution provides that if any remaining portion of the divided question fails, then the House shall be considered to have made no disposition of the Senate amendment.

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

EXPLANATION OF WAIVERS

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

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

COMMITTEE VOTES

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

Rules Committee Record Vote No. 64

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

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

Rules Committee Record Vote No. 65

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

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

Rules Committee Record Vote No. 66

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

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

Rules Committee Record Vote No. 67

Motion by Mr. Hastings of Florida to make in order and provide the appropriate waivers for amendments to H.R. 1314: amendment #1, offered by Rep. Pocan (WI), Rep. Slaughter (NY), and Rep. DeFazio (OR), which prevents fast-track procedures in the underlying bill from applying to trade deals that include Investor-State Dispute Settlements (ISDS) provisions, which allow foreign companies to challenge U.S. laws and undermine U.S. sovereignty; amendment #9, offered by Rep. Lipinski (IL) and Rep. Jones (NC), which provides that protecting Buy American, Buy America, and Buy Local provisions are negotiating objectives for the United States Trade Representative as it negotiates free trade agreements under this bill; amendment #16, offered by Rep. Levin (MI), which ensures that fast track procedures only apply to the Trans-Pacific Partnership if, among other things, Congress determines that the final agreement satisfies detailed negotiating instructions regarding the outstanding issues in the negotiations; amendment #24, offered by Rep. Tonko (NY), which adds climate change mitigation to the labor and environment negotiating objectives; amendment #25, offered by Rep. Cicilline (RI), Rep. Maloney (NY), Rep. Pocan (WI), Rep. Sánchez (CA), and Rep. Lynch (MA), which prohibits the President from entering into trade agreements under this act with countries that have an established penal code that legalizes violence, criminalization, or execution of lesbian, gay, bisexual and transgendered individuals by reason of their actual or perceived sexual orientation or gender identity; amendment #27, offered by Rep. Lewis (GA) and Rep. Edwards (MD), which provides instructions on labor and human rights and add a procedure where, if appropriate, human rights legislation may be added to an implementing bill; and amendment #61, offered by Rep. Becerra (CA), which provides that fast track procedures will not apply to a trade agreement that does not include explicit protections for government health policies and programs, such as Medicare and Medicaid, from investment disputes. Defeated: 4-9

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

Rules Committee Record Vote No. 68

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

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

Rules Committee Record Vote No. 69

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

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

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

Rules Committee Record Vote No. 70

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

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

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

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

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

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

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

**AMENDMENT TO THE SENATE AMENDMENT TO
H.R. 644**

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

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

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

TITLE I—TRADE FACILITATION AND TRADE ENFORCEMENT

- Sec. 101. Improving partnership programs.
- Sec. 102. Report on effectiveness of trade enforcement activities.
- Sec. 103. Priorities and performance standards for customs modernization, trade facilitation, and trade enforcement functions and programs.
- Sec. 104. Educational seminars to improve efforts to classify and appraise imported articles, to improve trade enforcement efforts, and to otherwise facilitate legitimate international trade.
- Sec. 105. Joint strategic plan.
- Sec. 106. Automated Commercial Environment.
- Sec. 107. International Trade Data System.
- Sec. 108. Consultations with respect to mutual recognition arrangements.
- Sec. 109. Commercial Customs Operations Advisory Committee.
- Sec. 110. Centers of Excellence and Expertise.
- Sec. 111. Commercial risk assessment targeting and trade alerts.
- Sec. 112. Report on oversight of revenue protection and enforcement measures.
- Sec. 113. Report on security and revenue measures with respect to merchandise transported in bond.
- Sec. 114. Importer of record program.
- Sec. 115. Establishment of new importer program.
- Sec. 116. Customs broker identification of importers.
- Sec. 117. Requirements applicable to non-resident importers.
- Sec. 118. Priority trade issues.

Sec. 119. Appropriate congressional committees defined.

TITLE II—IMPORT HEALTH AND SAFETY

Sec. 201. Interagency import safety working group.

Sec. 202. Joint import safety rapid response plan.

Sec. 203. Training.

TITLE III—IMPORT-RELATED PROTECTION OF INTELLECTUAL
PROPERTY RIGHTS

Sec. 301. Definition of intellectual property rights.

Sec. 302. Exchange of information related to trade enforcement.

Sec. 303. Seizure of circumvention devices.

Sec. 304. Enforcement by U.S. Customs and Border Protection of works for
which copyright registration is pending.

Sec. 305. National Intellectual Property Rights Coordination Center.

Sec. 306. Joint strategic plan for the enforcement of intellectual property
rights.

Sec. 307. Personnel dedicated to the enforcement of intellectual property rights.

Sec. 308. Training with respect to the enforcement of intellectual property
rights.

Sec. 309. International cooperation and information sharing.

Sec. 310. Report on intellectual property rights enforcement.

Sec. 311. Information for travelers regarding violations of intellectual property
rights.

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

Sec. 401. Short title.

Sec. 402. Definitions.

Sec. 403. Application to Canada and Mexico.

Subtitle A—Actions Relating to Enforcement of Trade Remedy Laws

Sec. 411. Trade remedy law enforcement division.

Sec. 412. Collection of information on evasion of trade remedy laws.

Sec. 413. Access to information.

Sec. 414. Cooperation with foreign countries on preventing evasion of trade
remedy laws.

Sec. 415. Trade negotiating objectives.

Subtitle B—Investigation of Evasion of Trade Remedy Laws

Sec. 421. Procedures for investigation of evasion of antidumping and counter-
vailing duty orders.

Sec. 422. Government Accountability Office report.

Subtitle C—Other Matters

Sec. 431. Allocation and training of personnel.

Sec. 432. Annual report on prevention of evasion of antidumping and counter-
vailing duty orders.

Sec. 433. Addressing circumvention by new shippers.

TITLE V—IMPROVEMENTS TO ANTIDUMPING AND
COUNTERVAILING DUTY LAWS

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

TITLE VI—ADDITIONAL ENFORCEMENT PROVISIONS

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

TITLE VII—CURRENCY MANIPULATION

- Sec. 701. Enhancement of engagement on currency exchange rate and economic policies with certain major trading partners of the United States.
- Sec. 702. Advisory Committee on International Exchange Rate Policy.

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

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

TITLE IX—MISCELLANEOUS PROVISIONS

- Sec. 901. De minimis value.
- Sec. 902. Consultation on trade and customs revenue functions.
- Sec. 903. Penalties for customs brokers.
- Sec. 904. Amendments to chapter 98 of the Harmonized Tariff Schedule of the United States.
- Sec. 905. Exemption from duty of residue of bulk cargo contained in instruments of international traffic previously exported from the United States.
- Sec. 906. Drawback and refunds.
- Sec. 907. Office of the United States Trade Representative.
- Sec. 908. United States-Israel Trade and Commercial Enhancement.
- Sec. 909. Elimination of consumptive demand exception to prohibition on importation of goods made with convict labor, forced labor, or indentured labor; report.
- Sec. 910. Customs user fees.
- Sec. 911. Report on certain U.S. Customs and Border Protection agreements.
- Sec. 912. Amendments to Bipartisan Congressional Trade Priorities and Accountability Act of 2015.
- Sec. 913. Certain interest to be included in distributions under Continued Dumping and Subsidy Offset Act of 2000.
- Sec. 914. Report on competitiveness of U.S. recreational performance outerwear industry.
- Sec. 915. Increase in penalty for failure to file return of tax.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **AUTOMATED COMMERCIAL 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 of U.S. Customs
11 and Border Protection, as described in section
12 411(b) of the Homeland Security Act of 2002, as
13 added by section 802(a) of this Act.

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

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

19 (B) Section 249 of the Revised Statutes
20 (19 U.S.C. 3).

21 (C) Section 2 of the Act of March 4, 1923
22 (42 Stat. 1453, chapter 251; 19 U.S.C. 6).

23 (D) The Act of March 3, 1927 (44 Stat.
24 1381, chapter 348; 19 U.S.C. 2071 et seq.).

1 (E) Section 13031 of the Consolidated
2 Omnibus Budget Reconciliation Act of 1985
3 (19 U.S.C. 58c).

4 (F) Section 251 of the Revised Statutes
5 (19 U.S.C. 66).

6 (G) Section 1 of the Act of June 26, 1930
7 (46 Stat. 817, chapter 617; 19 U.S.C. 68).

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

10 (I) Section 1 of the Act of March 2, 1911
11 (36 Stat. 965, chapter 191; 19 U.S.C. 198).

12 (J) The Trade Act of 1974 (19 U.S.C.
13 2102 et seq.).

14 (K) The Trade Agreements Act of 1979
15 (19 U.S.C. 2501 et seq.).

16 (L) The North American Free Trade
17 Agreement Implementation Act (19 U.S.C.
18 3301 et seq.).

19 (M) The Uruguay Round Agreements Act
20 (19 U.S.C. 3501 et seq.).

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

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

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

3 (Q) The Customs Enforcement Act of
4 1986 (Public Law 99-570; 100 Stat. 3207-79).

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

7 (S) The Customs Procedural Reform and
8 Simplification Act of 1978 (Public Law 95-
9 410; 92 Stat. 888).

10 (T) The Trade Act of 2002 (Public Law
11 107-210; 116 Stat. 933).

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

14 (V) The Act of March 28, 1928 (45 Stat.
15 374, chapter 266; 19 U.S.C. 2077 et seq.).

16 (W) The Act of August 7, 1939 (53 Stat.
17 1263, chapter 566).

18 (X) Any other provision of law imple-
19 menting a trade agreement.

20 (Y) Any other provision of law vesting cus-
21 toms revenue functions in the Secretary of the
22 Treasury.

23 (Z) Any other provision of law relating to
24 trade facilitation or trade enforcement that is
25 administered by U.S. Customs and Border Pro-

1 tection on behalf of any Federal agency that is
2 required to participate in the International
3 Trade Data System.

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

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

10 (A) an importer;

11 (B) an exporter;

12 (C) a forwarder;

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

14 (E) a contract logistics provider;

15 (F) a customs broker; or

16 (G) any other person (other than an em-
17 ployee of a government) affected by the imple-
18 mentation of the customs and trade laws of the
19 United States.

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

23 (6) TRADE FACILITATION.—The term “trade
24 facilitation” refers to policies and activities of U.S.
25 Customs and Border Protection with respect to fa-

1 cilitating the movement of merchandise into and out
2 of the United States in a manner that complies with
3 the customs and trade laws of the United States.

4 **TITLE I—TRADE FACILITATION** 5 **AND TRADE ENFORCEMENT**

6 **SEC. 101. IMPROVING PARTNERSHIP PROGRAMS.**

7 (a) IN GENERAL.—In order to advance the security,
8 trade enforcement, and trade facilitation missions of U.S.
9 Customs and Border Protection, the Commissioner shall
10 ensure that partnership programs of U.S. Customs and
11 Border Protection established before the date of the enact-
12 ment of this Act, such as the Customs–Trade Partnership
13 Against Terrorism established under subtitle B of title II
14 of the Security and Accountability for Every Port Act of
15 2006 (6 U.S.C. 961 et seq.), and partnership programs
16 of U.S. Customs and Border Protection established on or
17 after such date of enactment, provide trade benefits to pri-
18 vate sector entities that meet the requirements for partici-
19 pation in those programs established by the Commissioner
20 under this section.

21 (b) ELEMENTS.—In developing and operating part-
22 nership programs under subsection (a), the Commissioner
23 shall—

24 (1) consult with private sector entities, the pub-
25 lic, and other Federal agencies when appropriate, to

1 ensure that participants in those programs receive
2 commercially significant and measurable trade bene-
3 fits, including providing pre-clearance of merchan-
4 dise for qualified persons that demonstrate the high-
5 est levels of compliance with the customs and trade
6 laws of the United States, regulations of U.S. Cus-
7 toms and Border Protection, and other requirements
8 the Commissioner determines to be necessary;

9 (2) ensure an integrated and transparent sys-
10 tem of trade benefits and compliance requirements
11 for all partnership programs of U.S. Customs and
12 Border Protection;

13 (3) consider consolidating partnership programs
14 in situations in which doing so would support the
15 objectives of such programs, increase participation in
16 such programs, enhance the trade benefits provided
17 to participants in such programs, and enhance the
18 allocation of the resources of U.S. Customs and Bor-
19 der Protection;

20 (4) coordinate with the Director of U.S. Immi-
21 gration and Customs Enforcement, and other Fed-
22 eral agencies with authority to detain and release
23 merchandise entering the United States—

24 (A) to ensure coordination in the release of
25 such merchandise through the Automated Com-

1 mercial Environment, or its predecessor, and
2 the International Trade Data System;

3 (B) to ensure that the partnership pro-
4 grams of those agencies are compatible with the
5 partnership programs of U.S. Customs and
6 Border Protection;

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

13 (D) to create pathways, within and among
14 the appropriate Federal agencies, for qualified
15 persons that demonstrate the highest levels of
16 compliance with the customs and trade laws of
17 the United States to receive immediate clear-
18 ance absent information that a transaction may
19 pose a national security or compliance threat;
20 and

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

23 (c) REPORT REQUIRED.—Not later than the date
24 that is 180 days after the date of the enactment of this
25 Act, and not later than December 31 of each calendar year

1 thereafter, the Commissioner shall submit to the appro-
2 priate congressional committees a report that—

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

5 (2) for each such program, identifies—

6 (A) the requirements for participants in
7 the program;

8 (B) the commercially significant and meas-
9 urable trade benefits provided to participants in
10 the program;

11 (C) the number of participants in the pro-
12 gram; and

13 (D) in the case of a program that provides
14 for participation at multiple tiers, the number
15 of participants at each such tier;

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

18 (4) assesses the effectiveness of each such part-
19 nership program in advancing the security, trade en-
20 forcement, and trade facilitation missions of U.S.
21 Customs and Border Protection, based on historical
22 developments, the level of participation in the pro-
23 gram, and the evolution of benefits provided to par-
24 ticipants in the program;

1 (5) summarizes the efforts of U.S. Customs and
2 Border Protection to work with other Federal agen-
3 cies with authority to detain and release merchan-
4 dise entering the United States to ensure that part-
5 nership programs of those agencies are compatible
6 with partnership programs of U.S. Customs and
7 Border Protection;

8 (6) summarizes criteria developed with those
9 agencies for authorizing the release, on an expedited
10 basis, of merchandise for which documentation is re-
11 quired from one or more of those agencies to clear
12 or license the merchandise for entry into the United
13 States;

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

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

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

1 **SEC. 102. REPORT ON EFFECTIVENESS OF TRADE EN-**
2 **FORCEMENT ACTIVITIES.**

3 (a) **IN GENERAL.**—Not later than one year after the
4 date of the enactment of this Act, the Comptroller General
5 of the United States shall submit to the appropriate con-
6 gressional committees a report on the effectiveness of
7 trade enforcement activities of U.S. Customs and Border
8 Protection.

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

11 (1) a description of the use of resources, results
12 of audits and verifications, targeting, organization,
13 and training of personnel of U.S. Customs and Bor-
14 der Protection; and

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

21 **SEC. 103. PRIORITIES AND PERFORMANCE STANDARDS**
22 **FOR CUSTOMS MODERNIZATION, TRADE FA-**
23 **CILITATION, AND TRADE ENFORCEMENT**
24 **FUNCTIONS AND PROGRAMS.**

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

1 (1) IN GENERAL.—The Commissioner, in con-
2 sultation with the appropriate congressional commit-
3 tees, shall establish priorities and performance
4 standards to measure the development and levels of
5 achievement of the customs modernization, trade fa-
6 cilitation, and trade enforcement functions and pro-
7 grams described in subsection (b).

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

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

16 (1) The Automated Commercial Environment.

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

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

21 (4) Drawback for exported merchandise under
22 section 313 of the Tariff Act of 1930 (19 U.S.C.
23 1313), as amended by section 906 of this Act.

24 (5) Transactions relating to imported merchan-
25 dise in bond.

1 (6) Collection of countervailing duties assessed
2 under subtitle A of title VII of the Tariff Act of
3 1930 (19 U.S.C. 1671 et seq.) and antidumping du-
4 ties assessed under subtitle B of title VII of the Tar-
5 iff Act of 1930 (19 U.S.C. 1673 et seq.).

6 (7) The expedited clearance of cargo.

7 (8) The issuance of regulations and rulings.

8 (9) The issuance of Regulatory Audit Reports.

9 (c) CONSULTATIONS AND NOTIFICATION.—

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

13 (2) NOTIFICATION.—The Commissioner shall
14 notify the appropriate congressional committees of
15 any changes to the priorities referred to in sub-
16 section (a) not later than 30 days before such
17 changes are to take effect.

18 **SEC. 104. EDUCATIONAL SEMINARS TO IMPROVE EFFORTS**
19 **TO CLASSIFY AND APPRAISE IMPORTED AR-**
20 **TICLES, TO IMPROVE TRADE ENFORCEMENT**
21 **EFFORTS, AND TO OTHERWISE FACILITATE**
22 **LEGITIMATE INTERNATIONAL TRADE.**

23 (a) IN GENERAL.—

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

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

9 (B) improve the trade enforcement efforts
10 of U.S. Customs and Border Protection per-
11 sonnel and U.S. Immigration and Customs En-
12 forcement personnel; and

13 (C) otherwise improve the ability and effec-
14 tiveness of U.S. Customs and Border Protection
15 personnel and U.S. Immigration and Customs
16 Enforcement personnel to facilitate legitimate
17 international trade.

18 (b) CONTENT.—

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

1 sonnel and, as appropriate, to U.S. Immigration and
2 Customs Enforcement personnel on the following:

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

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

14 (C) Customs valuation.

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

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

1 enforcement personnel to identify opportunities to en-
2 hance enforcement of the following:

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

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

11 (C) Protection of intellectual property
12 rights.

13 (D) Enforcement of child labor laws.

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

19 (c) SELECTION PROCESS.—

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

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

5 (A) availability and usefulness;

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

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

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

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

18 (1) IN GENERAL.—The Commissioner shall give
19 due consideration to carrying out an educational
20 seminar under this section in whole or in part to im-
21 prove the ability of U.S. Customs and Border Pro-
22 tection personnel to enforce a countervailing or anti-
23 dumping duty order issued under section 706 or 736
24 of the Tariff Act of 1930 (19 U.S.C. 1671e or
25 1673e) upon the request of a petitioner in an action

1 underlying such countervailing or antidumping duty
2 order.

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

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

11 (f) REPORTING.—Beginning September 30, 2016, the
12 Commissioner and the Director shall submit to the appro-
13 priate congressional committees an annual report on the
14 effectiveness of educational seminars under this section.

15 (g) DEFINITIONS.—In this section:

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

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

23 (3) U.S. CUSTOMS AND BORDER PROTECTION
24 PERSONNEL.—The term “U.S. Customs and Border
25 Protection personnel” means import specialists,

1 auditors, and other appropriate employees of the
2 U.S. Customs and Border Protection.

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

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

10 (a) IN GENERAL.—Not later than one year after the
11 date of the enactment of this Act, and every 2 years there-
12 after, the Commissioner and the Director of U.S. Immi-
13 gration and Customs Enforcement shall jointly develop
14 and submit to the appropriate congressional committees
15 a joint strategic plan.

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

20 (1) a summary of actions taken during the 2-
21 year period preceding the submission of the plan to
22 improve trade enforcement and trade facilitation, in-
23 cluding a description and analysis of specific per-
24 formance measures to evaluate the progress of U.S.
25 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 section 118, that can be ad-
8 dressed in order to enhance trade enforcement and
9 trade facilitation, and a description of strategies and
10 plans for addressing each such issue;

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

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

22 (6) a description of efforts to work with the
23 World Customs Organization and other international
24 organizations, in consultation with other Federal

1 agencies as appropriate, with respect to enhancing
2 trade enforcement and trade facilitation;

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

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

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

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

15 (c) CONSULTATIONS.—

16 (1) IN GENERAL.—In developing the joint stra-
17 tegic plan required under this section, the Commis-
18 sioner and the Director of U.S. Immigration and
19 Customs Enforcement shall consult with—

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

22 (i) the Department of the Treasury;

23 (ii) the Department of Agriculture;

24 (iii) the Department of Commerce;

25 (iv) the Department of Justice;

- 1 (v) the Department of the Interior;
2 (vi) the Department of Health and
3 Human Services;
4 (vii) the Food and Drug Administra-
5 tion;
6 (viii) the Consumer Product Safety
7 Commission; and
8 (ix) the Office of the United States
9 Trade Representative; and

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

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

16 (A) appropriate officials from relevant for-
17 eign law enforcement agencies and international
18 organizations, including the World Customs Or-
19 ganization; and

20 (B) interested parties in the private sector.

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

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

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

3 (2) by striking “such amounts as are available
4 in that Account” and inserting “not less than
5 \$153,736,000”; and

6 (3) by striking “for the development” and in-
7 serting “to complete the development and implemen-
8 tation”.

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

12 “(3) REPORT.—

13 “(A) IN GENERAL.—Not later than De-
14 cember 31, 2016, the Commissioner of U.S.
15 Customs and Border Protection shall submit to
16 the Committee on Appropriations and the Com-
17 mittee on Finance of the Senate and the Com-
18 mittee on Appropriations and the Committee on
19 Ways and Means of the House of Representa-
20 tives a report detailing—

21 “(i) U.S. Customs and Border Protec-
22 tion’s incorporation of all core trade proc-
23 essing capabilities, including cargo release,
24 entry summary, cargo manifest, cargo fi-
25 nancial data, and export data elements

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

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

19 “(iii) the components of the National
20 Customs Automation Program specified in
21 subsection (a)(2) of section 411 of the
22 Tariff Act of 1930 that have not been im-
23 plemented; and

24 “(iv) any additional components of the
25 National Customs Automation Program

1 initiated by the Commissioner to complete
2 the development, establishment, and imple-
3 mentation of the Automated Commercial
4 Environment computer system.

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

14 “(i) evaluating the effectiveness of the
15 implementation of the Automated Commer-
16 cial Environment computer system; and

17 “(ii) detailing the percentage of trade
18 processed in the Automated Commercial
19 Environment every month since September
20 30, 2016.”.

21 (c) GOVERNMENT ACCOUNTABILITY OFFICE RE-
22 PORT.—Not later than December 31, 2017, the Comp-
23 troller General of the United States shall submit to the
24 Committee on Appropriations and the Committee on Fi-
25 nance of the Senate and the Committee on Appropriations

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

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

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

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

15 Section 411(d) of the Tariff Act of 1930 (19 U.S.C.
16 1411(d)) is amended—

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

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

21 “(4) INFORMATION TECHNOLOGY INFRASTRUC-
22 TURE.—

23 “(A) IN GENERAL.—The Secretary shall
24 work with the head of each agency participating

1 in the ITDS and the Interagency Steering
2 Committee to ensure that each agency—

3 “(i) develops and maintains the nec-
4 essary information technology infrastruc-
5 ture to support the operation of the ITDS
6 and to submit all data to the ITDS elec-
7 tronically;

8 “(ii) enters into a memorandum of
9 understanding, or takes such other action
10 as is necessary, to provide for the informa-
11 tion sharing between the agency and U.S.
12 Customs and Border Protection necessary
13 for the operation and maintenance of the
14 ITDS;

15 “(iii) not later than June 30, 2016,
16 identifies and transmits to the Commis-
17 sioner of U.S. Customs and Border Protec-
18 tion the admissibility criteria and data ele-
19 ments required by the agency to authorize
20 the release of cargo by U.S. Customs and
21 Border Protection for incorporation into
22 the operational functionality of the Auto-
23 mated Commercial Environment computer
24 system authorized under section
25 13031(f)(4) of the Consolidated Omnibus

1 Budget and Reconciliation Act of 1985 (19
2 U.S.C. 58c(f)(4)); and

3 “(iv) not later than December 31,
4 2016, utilizes the ITDS as the primary
5 means of receiving from users the standard
6 set of data and other relevant documenta-
7 tion, exclusive of applications for permits,
8 licenses, or certifications required for the
9 release of imported cargo and clearance of
10 cargo for export.

11 “(B) RULE OF CONSTRUCTION.—Nothing
12 in this paragraph shall be construed to require
13 any action to be taken that would compromise
14 an ongoing law enforcement investigation or na-
15 tional security.”; and

16 (3) in paragraph (8), as redesignated, by strik-
17 ing “section 9503(c) of the Omnibus Budget Rec-
18 onciliation Act of 1987 (19 U.S.C. 2071 note)” and
19 inserting “section 109 of the Trade Facilitation and
20 Trade Enforcement Act of 2015”.

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

23 (a) CONSULTATIONS.—The Secretary of Homeland
24 Security, with respect to any proposed mutual recognition
25 arrangement or similar agreement between the United

1 States and a foreign government providing for mutual rec-
2 ognition of supply chain security programs and customs
3 revenue functions, shall consult—

4 (1) not later than 30 days before initiating ne-
5 gotiations to enter into any such arrangement or
6 similar agreement, with the appropriate congres-
7 sional committees; and

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

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

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

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

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

5 (b) MEMBERSHIP.—

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

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

10 (B) the Assistant Secretary for Tax Policy
11 of the Department of the Treasury and the
12 Commissioner, who shall jointly co-chair meet-
13 ings of the Advisory Committee; and

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

19 (2) APPOINTMENT.—

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

24 (B) REQUIREMENTS.—In making appoint-
25 ments under subparagraph (A), the Secretary

1 of the Treasury and the Secretary of Homeland
2 Security shall appoint members—

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

8 (ii) without regard to political affili-
9 ation.

10 (C) TERMS.—Each individual appointed to
11 the Advisory Committee under this paragraph
12 shall be appointed for a term of not more than
13 3 years, and may be reappointed to subsequent
14 terms, but may not serve more than 2 terms se-
15 quentially.

16 (3) TRANSFER OF MEMBERSHIP.—The Sec-
17 retary of the Treasury and the Secretary of Home-
18 land Security may transfer members serving on the
19 Advisory Committee on Commercial Operations of
20 the United States Customs Service established under
21 section 9503(e) of the Omnibus Budget Reconcili-
22 ation Act of 1987 (19 U.S.C. 2071 note) on the day
23 before the date of the enactment of this Act to the
24 Advisory Committee established under subsection
25 (a).

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

3 (1) advise the Secretary of the Treasury and
4 the Secretary of Homeland Security on all matters
5 involving the commercial operations of U.S. Customs
6 and Border Protection, including advising with re-
7 spect to significant changes that are proposed with
8 respect to regulations, policies, or practices of U.S.
9 Customs and Border Protection;

10 (2) provide recommendations to the Secretary
11 of the Treasury and the Secretary of Homeland Se-
12 curity on improvements to the commercial operations
13 of U.S. Customs and Border Protection;

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

16 (4) perform such other functions relating to the
17 commercial operations of U.S. Customs and Border
18 Protection as prescribed by law or as the Secretary
19 of the Treasury and the Secretary of Homeland Se-
20 curity jointly direct.

21 (d) MEETINGS.—

22 (1) IN GENERAL.—The Advisory Committee
23 shall meet at the call of the Secretary of the Treas-
24 ury and the Secretary of Homeland Security, or at
25 the call of not less than $\frac{2}{3}$ of the membership of the

1 Advisory Committee. The Advisory Committee shall
2 meet at least 4 times each calendar year.

3 (2) OPEN MEETINGS.—Notwithstanding section
4 10(a) of the Federal Advisory Committee Act (5
5 U.S.C. App.), the Advisory Committee meetings
6 shall be open to the public unless the Secretary of
7 the Treasury or the Secretary of Homeland Security
8 determines that the meeting will include matters the
9 disclosure of which would compromise the develop-
10 ment of policies, priorities, or negotiating objectives
11 or positions that could impact the commercial oper-
12 ations of U.S. Customs and Border Protection or
13 the operations or investigations of U.S. Immigration
14 and Customs Enforcement.

15 (e) ANNUAL REPORT.—Not later than December 31,
16 2016, and annually thereafter, the Advisory Committee
17 shall submit to the Committee on Finance of the Senate
18 and the Committee on Ways and Means of the House of
19 Representatives a report that—

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

22 (2) sets forth any recommendations of the Advi-
23 sory Committee regarding the commercial operations
24 of U.S. Customs and Border Protection.

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

5 (g) CONFORMING AMENDMENT.—

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

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

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

22 (a) IN GENERAL.—The Commissioner shall, in con-
23 sultation with the appropriate congressional committees
24 and the Commercial Customs Operations Advisory Com-
25 mittee established by section 109, develop and implement

1 Centers of Excellence and Expertise throughout U.S. Cus-
2 toms and Border Protection that—

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

9 (2) improve enforcement efforts, including en-
10 forcement of priority trade issues described in sec-
11 tion 118, in specific industry sectors through the ap-
12 plication of targeting information from the National
13 Targeting Center under section 111 and from other
14 means of verification;

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

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

21 (5) centralize the trade enforcement and trade
22 facilitation efforts of U.S. Customs and Border Pro-
23 tection;

24 (6) formalize an account-based approach to
25 apply, as the Commissioner determines appropriate,

1 to the importation of merchandise into the United
2 States;

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

5 (8) develop applicable performance measure-
6 ments to meet internal efficiency and effectiveness
7 goals; and

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

10 (b) REPORT.—Not later than December 31, 2016,
11 the Commissioner shall submit to the appropriate congres-
12 sional committees a report describing—

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

16 (2) the effectiveness of each such Center of Ex-
17 cellence and Expertise in improving enforcement ef-
18 forts, including enforcement of priority trade issues
19 described in section 118, and facilitating legitimate
20 trade;

21 (3) the quantitative and qualitative benefits of
22 each such Center of Excellence and Expertise to the
23 trade community, including through fostering part-
24 nerships through the expansion of trade programs

1 such as the Importer Self Assessment program and
2 other trusted partner programs;

3 (4) all applicable performance measurements
4 with respect to each such Center of Excellence and
5 Expertise, including performance measures with re-
6 spect to meeting internal efficiency and effectiveness
7 goals;

8 (5) the performance of each such Center of Ex-
9 cellence and Expertise in increasing the accuracy
10 and completeness of data with respect to inter-
11 national trade and facilitating a more efficient flow
12 of information between Federal agencies; and

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

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

19 (a) **COMMERCIAL RISK ASSESSMENT TARGETING.**—
20 In carrying out its duties under section 411(g)(4) of the
21 Homeland Security Act of 2002, as added by section
22 802(a) of this Act, the National Targeting Center shall—

23 (1) establish targeted risk assessment meth-
24 odologies and standards—

1 (A) for evaluating the risk that cargo des-
2 tined for the United States may violate the cus-
3 toms and trade laws of the United States, par-
4 ticularly those laws applicable to merchandise
5 subject to the priority trade issues described in
6 section 118; and

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

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

12 (A) publicly available information;

13 (B) information available from the Auto-
14 mated Commercial System, the Automated
15 Commercial Environment computer system, the
16 Automated Targeting System, the Automated
17 Export System, the International Trade Data
18 System, the TECS (formerly known as the
19 “Treasury Enforcement Communications Sys-
20 tem”), the case management system of U.S.
21 Immigration and Customs Enforcement, and
22 any successor systems; and

23 (C) information made available to the Na-
24 tional Targeting Center, including information
25 provided by private sector entities; and

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

7 (b) TRADE ALERTS.—

8 (1) ISSUANCE.—In carrying out its duties
9 under section 411(g)(4) of the Homeland Security
10 Act of 2002, as added by section 802(a) of this Act,
11 and based upon the application of the targeted risk
12 assessment methodologies and standards established
13 under subsection (a), the Executive Director of the
14 National Targeting Center may issue Trade Alerts
15 to directors of United States ports of entry directing
16 further inspection, or physical examination or test-
17 ing, of specific merchandise to ensure compliance
18 with all applicable customs and trade laws and regu-
19 lations administered by U.S. Customs and Border
20 Protection.

21 (2) DETERMINATIONS NOT TO IMPLEMENT
22 TRADE ALERTS.—The director of a United States
23 port of entry may determine not to conduct further
24 inspections, or physical examination or testing, pur-

1 suant to a Trade Alert issued under paragraph (1)
2 if—

3 (A) the director finds that such a deter-
4 mination is justified by port security interests;
5 and

6 (B) not later than 48 hours after making
7 the determination, notifies the Assistant Com-
8 missioner of the Office of Field Operations of
9 U.S. Customs and Border Protection of the de-
10 termination and the reasons for the determina-
11 tion.

12 (3) SUMMARY OF DETERMINATIONS NOT TO IM-
13 PLEMENT.—The Assistant Commissioner of the Of-
14 fice of Field Operations of U.S. Customs and Border
15 Protection shall—

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

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

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

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

9 (A) assessing duties;

10 (B) identifying restricted or prohibited
11 items; and

12 (C) ensuring compliance with all applicable
13 customs and trade laws and regulations admin-
14 istered by U.S. Customs and Border Protection.

15 (c) USE OF TRADE DATA FOR COMMERCIAL EN-
16 FORCEMENT PURPOSES.—Section 343(a)(3)(F) of the
17 Trade Act of 2002 (19 U.S.C. 2071 note) is amended to
18 read as follows:

19 “(F) The information collected pursuant to
20 the regulations shall be used exclusively for en-
21 suring cargo safety and security, preventing
22 smuggling, and commercial risk assessment tar-
23 geting, and shall not be used for any commer-
24 cial enforcement purposes, including for deter-
25 mining merchandise entry. Notwithstanding the

1 preceding sentence, nothing in this section shall
2 be treated as amending, repealing, or otherwise
3 modifying title IV of the Tariff Act of 1930 or
4 regulations promulgated thereunder.”.

5 **SEC. 112. REPORT ON OVERSIGHT OF REVENUE PROTEC-**
6 **TION AND ENFORCEMENT MEASURES.**

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

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

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

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

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

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

9 (2) The effectiveness of actions taken by U.S.
10 Customs and Border Protection to measure account-
11 ability and performance with respect to protection of
12 revenue.

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

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

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

1 **SEC. 113. REPORT ON SECURITY AND REVENUE MEASURES**
2 **WITH RESPECT TO MERCHANDISE TRANS-**
3 **PORTED IN BOND.**

4 (a) IN GENERAL.—Not later than December 31 of
5 2016, 2017, and 2018, the Secretary of Homeland Secu-
6 rity and the Secretary of the Treasury shall jointly submit
7 to the Committee on Finance of the Senate and the Com-
8 mittee on Ways and Means of the House of Representa-
9 tives a report on efforts undertaken by U.S. Customs and
10 Border Protection to ensure the secure transportation of
11 merchandise in bond through the United States and the
12 collection of revenue owed upon the entry of such mer-
13 chandise into the United States for consumption.

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

17 (1) the overall number of entries of merchan-
18 dise for transportation in bond through the United
19 States;

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

24 (3) the average time taken to reconcile such
25 records with the records at the final destination of
26 the merchandise in the United States to demonstrate

1 that the merchandise reaches its final destination or
2 is re-exported;

3 (4) the average time taken to transport mer-
4 chandise in bond from the port at which the mer-
5 chandise arrives in the United States to its final des-
6 tination in the United States;

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

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

14 (7) the number of entries that remain
15 unreconciled.

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

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

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

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

4 (A) criteria to ensure sufficient informa-
5 tion is collected to allow U.S. Customs and Bor-
6 der Protection to verify the existence of the im-
7 porter requesting the importer of record num-
8 ber;

9 (B) criteria to ensure sufficient informa-
10 tion is collected to allow U.S. Customs and Bor-
11 der Protection to identify linkages or other af-
12 filiations between importers that are requesting
13 or have been assigned importer of record num-
14 bers; and

15 (C) criteria to ensure sufficient informa-
16 tion is collected to allow U.S. Customs and Bor-
17 der Protection to identify changes in address
18 and corporate structure of importers;

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

21 (3) maintains a centralized database of im-
22 porter of record numbers, including a history of im-
23 porter of record numbers associated with each im-
24 porter, and the information described in subpara-
25 graphs (A), (B), and (C) of paragraph (1);

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

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

5 (c) **REPORT.**—Not later than one year after the date
6 of the enactment of this Act, the Secretary shall submit
7 to the Committee on Finance of the Senate and the Com-
8 mittee on Ways and Means of the House of Representa-
9 tives a report on the importer of record program estab-
10 lished under subsection (a).

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

18 **SEC. 115. 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 section 118;

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

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

1 **SEC. 116. CUSTOMS BROKER IDENTIFICATION OF IMPORT-**
2 **ERS.**

3 (a) IN GENERAL.—Section 641 of the Tariff Act of
4 1930 (19 U.S.C. 1641) is amended by adding at the end
5 the following:

6 “(i) IDENTIFICATION OF IMPORTERS.—

7 “(1) IN GENERAL.—The Secretary shall pre-
8 scribe regulations setting forth the minimum stand-
9 ards for customs brokers and importers, including
10 nonresident importers, regarding the identity of the
11 importer that shall apply in connection with the im-
12 portation of merchandise into the United States.

13 “(2) MINIMUM REQUIREMENTS.—The regula-
14 tions shall, at a minimum, require customs brokers
15 to implement, and importers (after being given ade-
16 quate notice) to comply with, reasonable procedures
17 for—

18 “(A) collecting the identity of importers,
19 including nonresident importers, seeking to im-
20 port merchandise into the United States to the
21 extent reasonable and practicable; and

22 “(B) maintaining records of the informa-
23 tion used to substantiate a person’s identity, in-
24 cluding name, address, and other identifying in-
25 formation.

1 “(3) PENALTIES.—Any customs broker who
2 fails to collect information required under the regu-
3 lations prescribed under this subsection shall be lia-
4 ble to the United States, at the discretion of the
5 Secretary, for a monetary penalty not to exceed
6 \$10,000 for each violation of those regulations and
7 subject to revocation or suspension of a license or
8 permit of the customs broker pursuant to the proce-
9 dures set forth in subsection (d).

10 “(4) DEFINITIONS.—In this subsection—

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

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

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

20 “(ii) a partnership, corporation, or
21 other commercial entity that is not orga-
22 nized under the laws of a jurisdiction with-
23 in the customs territory of the United
24 States (as such term is defined in General
25 Note 2 of the Harmonized Tariff Schedule

1 of the United States) or in the Virgin Is-
2 lands of the United States.”.

3 (b) STUDY AND REPORT REQUIRED.—Not later than
4 180 days after the date of enactment of this Act, the Com-
5 missioner shall submit to Congress a report containing
6 recommendations for—

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

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

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

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

6 **“SEC. 484c. REQUIREMENTS APPLICABLE TO NON-RESI-**
7 **DENT IMPORTERS.**

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

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

17 “(1) The resident agent shall be authorized to
18 accept service of process against the non-resident
19 importer in connection with the importation of mer-
20 chandise.

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

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

7 “(d) PENALTIES.—

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

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

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

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

1 Trade Facilitation and Trade Enforcement Act of
2 2015.”.

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

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

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

- 13 (1) Agriculture programs.
- 14 (2) Antidumping and countervailing duties.
- 15 (3) Import safety.
- 16 (4) Intellectual property rights.
- 17 (5) Revenue.
- 18 (6) Textiles and wearing apparel.
- 19 (7) Trade agreements and preference programs.

20 (b) **MODIFICATION.**—The Commissioner is author-
21 ized to establish new priority trade issues and eliminate,
22 consolidate, or otherwise modify the priority trade issues
23 described in subsection (a) if the Commissioner—

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

1 (2) submits to the appropriate congressional
2 committees a summary of the proposed changes to
3 the priority trade issues not later than 60 days be-
4 fore such changes are to take effect.

5 **SEC. 119. APPROPRIATE CONGRESSIONAL COMMITTEES**

6 **DEFINED.**

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

9 (1) the Committee on Finance and the Com-
10 mittee on Homeland Security and Government Af-
11 fairs of the Senate; and

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

15 **TITLE II—IMPORT HEALTH AND**
16 **SAFETY**

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

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

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

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

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

3 (3) The Secretary of the Treasury.

4 (4) The Secretary of Commerce.

5 (5) The Secretary of Agriculture.

6 (6) The United States Trade Representative.

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

9 (8) The Commissioner of Food and Drugs.

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

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

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

16 (12) The head of any other Federal agency des-
17 ignated by the President to participate in the inter-
18 agency Import Safety Working Group, as appro-
19 priate.

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

22 (1) consulting on the development of the joint
23 import safety rapid response plan required by sec-
24 tion 202;

1 (2) periodically evaluating the adequacy of the
2 plans, practices, and resources of the Federal Gov-
3 ernment dedicated to ensuring the safety of mer-
4 chandise imported in the United States and the ex-
5 peditious entry of such merchandise, including—

6 (A) minimizing the duplication of efforts
7 among agencies the heads of which are mem-
8 bers of the interagency Import Safety Working
9 Group and ensuring the compatibility of the
10 policies and regulations of those agencies; and

11 (B) recommending additional administra-
12 tive actions, as appropriate, designed to ensure
13 the safety of merchandise imported into the
14 United States and the expeditious entry of such
15 merchandise and considering the impact of
16 those actions on private sector entities;

17 (3) reviewing the engagement and cooperation
18 of foreign governments and foreign manufacturers in
19 facilitating the inspection and certification, as appro-
20 priate, of such merchandise to be imported into the
21 United States and the facilities producing such mer-
22 chandise to ensure the safety of the merchandise
23 and the expeditious entry of the merchandise into
24 the United States;

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

6 (A) the inspection of manufacturing facili-
7 ties in foreign countries;

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

12 (C) the protection of the international sup-
13 ply chain (as defined in section 2 of the Secu-
14 rity and Accountability For Every Port Act of
15 2006 (6 U.S.C. 901));

16 (5) identifying best practices to assist Federal,
17 State, and local governments and agencies, and port
18 authorities, to improve communication and coordina-
19 tion among such agencies and authorities with re-
20 spect to ensuring the safety of merchandise imported
21 into the United States and the expeditious entry of
22 such merchandise; and

23 (6) otherwise identifying appropriate steps to
24 increase the accountability of United States import-
25 ers and the engagement of foreign government agen-

1 cies with respect to ensuring the safety of merchan-
2 dise imported into the United States and the expedi-
3 tious entry of such merchandise.

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

5 (a) IN GENERAL.—Not later than December 31,
6 2016, the Secretary of Homeland Security, in consultation
7 with the interagency Import Safety Working Group estab-
8 lished under section 201, shall develop a plan (to be known
9 as the “joint import safety rapid response plan”) that sets
10 forth protocols and defines practices for U.S. Customs and
11 Border Protection to use—

12 (1) in taking action in response to, and coordi-
13 nating Federal responses to, an incident in which
14 cargo destined for or merchandise entering the
15 United States has been identified as posing a threat
16 to the health or safety of consumers in the United
17 States; and

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

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

23 (1) the statutory and regulatory authorities and
24 responsibilities of U.S. Customs and Border Protec-

1 tion and other Federal agencies in responding to an
2 incident described in subsection (a)(1);

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

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

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

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

21 (d) IMPORT HEALTH AND SAFETY EXERCISES.—

22 (1) IN GENERAL.—The Secretary of Homeland
23 Security and the Commissioner shall periodically en-
24 gage in the exercises referred to in subsection (b)(4),
25 in conjunction with Federal, State, and local agen-

1 cies and private sector entities, as appropriate, to
2 test and evaluate the protocols and practices identi-
3 fied in the joint import safety rapid response plan at
4 United States ports of entry.

5 (2) REQUIREMENTS FOR EXERCISES.—In con-
6 ducting exercises under paragraph (1), the Secretary
7 and the Commissioner shall—

8 (A) make allowance for the resources,
9 needs, and constraints of United States ports of
10 entry of different sizes in representative geo-
11 graphic locations across the United States;

12 (B) base evaluations on current risk as-
13 sessments of merchandise entering the United
14 States at representative United States ports of
15 entry located across the United States;

16 (C) ensure that such exercises are con-
17 ducted in a manner consistent with the Na-
18 tional Incident Management System, the Na-
19 tional Response Plan, the National Infrastruc-
20 ture Protection Plan, the National Prepared-
21 ness Guidelines, the Maritime Transportation
22 System Security Plan, and other such national
23 initiatives of the Department of Homeland Se-
24 curity, as appropriate; and

1 (D) develop metrics with respect to the re-
2 sumption of the entry of merchandise into the
3 United States after an incident described in
4 subsection (a)(1).

5 (3) REQUIREMENTS FOR TESTING AND EVALUA-
6 TION.—The Secretary and the Commissioner shall
7 ensure that the testing and evaluation carried out in
8 conducting exercises under paragraph (1)—

9 (A) are performed using clear and objec-
10 tive performance measures; and

11 (B) result in the identification of specific
12 recommendations or best practices for respond-
13 ing to an incident described in subsection
14 (a)(1).

15 (4) DISSEMINATION OF RECOMMENDATIONS
16 AND BEST PRACTICES.—The Secretary and the
17 Commissioner shall—

18 (A) share the recommendations or best
19 practices identified under paragraph (3)(B)
20 among the members of the interagency Import
21 Safety Working Group established under sec-
22 tion 201 and with, as appropriate—

23 (i) State, local, and tribal govern-
24 ments;

25 (ii) foreign governments; and

1 (iii) private sector entities; and
2 (B) use such recommendations and best
3 practices to update the joint import safety rapid
4 response plan.

5 **SEC. 203. TRAINING.**

6 The Commissioner shall ensure that personnel of
7 U.S. Customs and Border Protection assigned to United
8 States ports of entry are trained to effectively administer
9 the provisions of this title and to otherwise assist in ensur-
10 ing the safety of merchandise imported into the United
11 States and the expeditious entry of such merchandise.

12 **TITLE III—IMPORT-RELATED**
13 **PROTECTION OF INTELLEC-**
14 **TUAL PROPERTY RIGHTS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (b) NOTIFICATION OF PERSONS INJURED.—

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

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

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

1 retary of the Treasury shall prescribe regulations es-
2 tablishing procedures that implement this sub-
3 section.

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

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

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

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

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

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

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

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

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

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

16 (B) to develop metrics to assess whether
17 the training improved enforcement of intellec-
18 tual property rights;

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

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

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

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

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

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

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

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

23 (c) COORDINATION WITH OTHER AGENCIES.—In
24 carrying out the duties described in subsection (b), the As-

1 sistant Director of the National Intellectual Property
2 Rights Coordination Center shall coordinate with—

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

4 (2) the Food and Drug Administration;

5 (3) the Department of Justice;

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

8 (5) the United States Postal Inspection Service;

9 (6) the Office of the United States Trade Rep-
10 resentative;

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

15 (8) any other entities that the Director con-
16 siders appropriate.

17 (d) PRIVATE SECTOR OUTREACH.—

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

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

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

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

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

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

22 (3) a recommendation for the optimal allocation
23 of personnel, resources, and technology to ensure
24 that U.S. Customs and Border Protection and U.S.

1 Immigration and Customs Enforcement are ade-
2 quately enforcing intellectual property rights.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 Not later than June 30, 2016, and annually there-
4 after, the Commissioner and the Director of U.S. Immi-
5 gration and Customs Enforcement shall jointly submit to
6 the Committee on Finance of the Senate, the Committee
7 on Ways and Means of the House of Representatives, the
8 Committee on Homeland Security and Governmental Af-
9 fairs of the Senate, and the Committee on Homeland Se-
10 curity of the House of Representatives a report that con-
11 tains the following:

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

14 (A) The number of referrals, during the
15 preceding year, from U.S. Customs and Border
16 Protection to U.S. Immigration and Customs
17 Enforcement relating to infringement of intel-
18 lectual property rights .

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

25 (C) The number of such investigations ac-
26 cepted by each such United States attorney and

1 the status or outcome of each such investiga-
2 tion.

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

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

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

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

23 (A) the interdiction and investigation of,
24 and the sharing of information between those

1 agencies and other Federal agencies to prevent,
2 the infringement of intellectual property rights;

3 (B) collaboration with private sector enti-
4 ties—

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

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

12 (iii) to develop best practices to en-
13 force intellectual property rights; and

14 (C) coordination with foreign govèrnments
15 and international organizations with respect to
16 the enforcement of intellectual property rights.

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

1 (5) A summary of training relating to the en-
2 forcement of intellectual property rights conducted
3 under section 308 and expenditures for such train-
4 ing.

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

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

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

1 nal penalties and may pose serious risks to safety or
2 health.

3 **TITLE IV—PREVENTION OF EVA-**
4 **SION OF ANTIDUMPING AND**
5 **COUNTERVAILING DUTY OR-**
6 **DERS**

7 **SEC. 401. SHORT TITLE.**

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

11 **SEC. 402. DEFINITIONS.**

12 In this title:

13 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
14 **TEES.**—The term “appropriate congressional com-
15 mittees” means—

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

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

22 (2) **COVERED MERCHANDISE.**—The term “cov-
23 ered merchandise” means merchandise that is sub-
24 ject to—

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

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

5 (3) ELIGIBLE SMALL BUSINESS.—

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

13 (B) NONREVIEWABILITY.—Any agency de-
14 cision regarding whether a business concern is
15 an eligible small business for purposes of sec-
16 tion 411(b)(4)(E) is not reviewable by any
17 other agency or by any court.

18 (4) ENTER; ENTRY.—The terms “enter” and
19 “entry” refer to the entry, or withdrawal from ware-
20 house for consumption, in the customs territory of
21 the United States.

22 (5) EVADE; EVASION.—The terms “evade” and
23 “evasion” refer to entering covered merchandise into
24 the customs territory of the United States by means
25 of any document or electronically transmitted data

1 or information, written or oral statement, or act that
2 is material and false, or any omission that is mate-
3 rial, and that results in any cash deposit or other se-
4 curity or any amount of applicable antidumping or
5 countervailing duties being reduced or not being ap-
6 plied with respect to the merchandise.

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

9 (7) TRADE REMEDY LAWS.—The term “trade
10 remedy laws” means title VII of the Tariff Act of
11 1930.

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

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

18 **Subtitle A—Actions Relating to En-**
19 **forcement of Trade Remedy**
20 **Laws**

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

22 (a) ESTABLISHMENT.—

23 (1) IN GENERAL.—The Secretary of Homeland
24 Security shall establish and maintain within the Of-
25 fice of International Trade of U.S. Customs and

1 Border Protection, established under section 2(d) of
2 the Act of March 3, 1927 (44 Stat. 1381, chapter
3 348; 19 U.S.C. 2072(d)), a Trade Remedy Law En-
4 forcement Division.

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

7 (A) headquarters personnel led by a Direc-
8 tor, who shall report to the Assistant Commis-
9 sioner of the Office of International Trade; and

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

13 (3) DUTIES.—The Trade Remedy Law Enforce-
14 ment Division shall be dedicated—

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

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

19 (C) to the development and conduct of
20 commercial risk assessment targeting with re-
21 spect to cargo destined for the United States in
22 accordance with subsection (c);

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

1 (E) to the development of policies for the
2 application of single entry and continuous
3 bonds for entries of covered merchandise to suf-
4 ficiently protect the collection of antidumping
5 and countervailing duties commensurate with
6 the level of risk of noncollection.

7 (b) DUTIES OF DIRECTOR.—The duties of the Direc-
8 tor of the Trade Remedy Law Enforcement Division shall
9 include—

10 (1) directing the trade enforcement and compli-
11 ance assessment activities of U.S. Customs and Bor-
12 der Protection that concern evasion;

13 (2) facilitating, promoting, and coordinating co-
14 operation and the exchange of information between
15 U.S. Customs and Border Protection, U.S. Immigra-
16 tion and Customs Enforcement, and other relevant
17 agencies regarding evasion;

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

1 (4) serving as the primary liaison between U.S.
2 Customs and Border Protection and the public re-
3 garding United States Government activities con-
4 cerning evasion, including—

5 (A) receive and transmit to the appropriate
6 U.S. Customs and Border Protection office alle-
7 gations from parties of evasion;

8 (B) upon request by the party or parties
9 that submitted an allegation of evasion, provide
10 information to such party or parties on the sta-
11 tus of U.S. Customs and Border Protection's
12 consideration of the allegation and decision to
13 pursue or not pursue any administrative inquir-
14 ies or other actions, such as changes in policies,
15 procedures, or resource allocation as a result of
16 the allegation;

17 (C) as needed, request from the party or
18 parties that submitted an allegation of evasion
19 any additional information that may be relevant
20 for U.S. Customs and Border Protection deter-
21 mining whether to initiate an administrative in-
22 quiry or take any other action regarding the al-
23 legation;

24 (D) notify on a timely basis the party or
25 parties that submitted such an allegation of the

1 results of any administrative, civil or criminal
2 actions taken by U.S. Customs and Border Pro-
3 tection or other Federal agency regarding eva-
4 sion as a direct or indirect result of the allega-
5 tion;

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

14 (F) in cooperation with the public, the
15 Commercial Customs Operations Advisory Com-
16 mittee, the Trade Support Network, and any
17 other relevant parties and organizations, de-
18 velop guidelines on the types and nature of in-
19 formation that may be provided in allegations
20 of evasion; and

21 (G) regularly consult with the public, the
22 Commercial Customs Operations Advisory Com-
23 mittee, the Trade Support Network, and any
24 other relevant parties and organizations regard-
25 ing the development and implementation of reg-

1 ulations, interpretations, and policies related to
2 countering evasion.

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

8 (1) establish targeted risk assessment meth-
9 odologies and standards—

10 (A) for evaluating the risk that cargo des-
11 tined for the United States may constitute
12 evading covered merchandise; and

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

15 (2) to the extent practicable and otherwise au-
16 thorized by law, use information available from the
17 Automated Commercial System, the Automated
18 Commercial Environment computer system, the
19 Automated Targeting System, the Automated Ex-
20 port System, the International Trade Data System,
21 and the TECS, and any similar and successor sys-
22 tems, to administer the methodologies and standards
23 established under paragraph (1).

24 (d) TRADE ALERTS.—Based upon the application of
25 the targeted risk assessment methodologies and standards

1 established under subsection (c), the Director of the Trade
2 Remedy Law Enforcement Division shall issue Trade
3 Alerts or other such means of notification to directors of
4 United States ports of entry directing further inspection,
5 physical examination, or testing of merchandise to ensure
6 compliance with the trade remedy laws and to require ad-
7 ditional bonds, cash deposits, or other security to ensure
8 collection of any duties, taxes and fees owed.

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

11 (a) **AUTHORITY TO COLLECT INFORMATION.**—To de-
12 termine whether covered merchandise is being entered into
13 the customs territory of the United States through eva-
14 sion, the Secretary, acting through the Commissioner—

15 (1) shall exercise all existing authorities to col-
16 lect information needed to make the determination;
17 and

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

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

1 (B) a person who is alleged to have en-
2 tered the covered merchandise into the customs
3 territory of the United States through evasion;
4 or

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

9 (b) ADVERSE INFERENCE.—

10 (1) IN GENERAL.—If the Secretary finds that a
11 person who filed an allegation, a person alleged to
12 have entered covered merchandise into the customs
13 territory of the United States through evasion, or a
14 foreign producer or exporter of covered merchandise
15 that is alleged to have entered into the customs ter-
16 ritory of the United States through evasion, has
17 failed to cooperate by not acting to the best of the
18 person's ability to comply with a request for infor-
19 mation, the Secretary may, in making a determina-
20 tion whether an entry or entries of covered merchan-
21 dise may constitute merchandise that is entered into
22 the customs territory of the United States through
23 evasion, use an inference that is adverse to the inter-
24 ests of that person in selecting from among the facts

1 otherwise available to determine whether evasion has
2 occurred.

3 (2) ADVERSE INFERENCE DESCRIBED.—An ad-
4 verse inference used under paragraph (1) may in-
5 clude reliance on information derived from—

6 (A) the allegation of evasion of the trade
7 remedy laws, if any, submitted to U.S. Customs
8 and Border Protection;

9 (B) a determination by the Commissioner
10 in another investigation, proceeding, or other
11 action regarding evasion of the unfair trade
12 laws; or

13 (C) any other available information.

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

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

19 (b) ADDITIONAL INFORMATION.—Notwithstanding
20 any other provision of law, the Secretary is authorized to
21 provide to the Secretary of Commerce or the United States
22 International Trade Commission any information that is
23 necessary to enable the Secretary of Commerce or the
24 United States International Trade Commission to assist
25 the Secretary to identify, through risk assessment tar-

1 getting or otherwise, covered merchandise that is entered
2 into the customs territory of the United States through
3 evasion.

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

7 (a) **BILATERAL AGREEMENTS.**—

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

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

18 (A) On the request of the importing coun-
19 try, the exporting country shall provide, con-
20 sistent with its laws, regulations, and proce-
21 dures, production, trade, and transit documents
22 and other information necessary to determine
23 whether an entry or entries exported from the
24 exporting country are subject to the importing
25 country's trade remedy laws.

1 (B) On the written request of the import-
2 ing country, the exporting country shall conduct
3 a verification for purposes of enabling the im-
4 porting country to make a determination de-
5 scribed in subparagraph (A).

6 (C) The exporting country may allow the
7 importing country to participate in a
8 verification described in subparagraph (B), in-
9 cluding through a site visit.

10 (D) If the exporting country does not allow
11 participation of the importing country in a
12 verification described in subparagraph (B), the
13 importing country may take this fact into con-
14 sideration in its trade enforcement and compli-
15 ance assessment activities regarding the compli-
16 ance of the exporting country's exports with the
17 importing country's trade remedy laws.

18 (b) CONSIDERATION.—The Commissioner is author-
19 ized to take into consideration whether a country is a sig-
20 natory to a bilateral agreement described in subsection (a)
21 and the extent to which the country is cooperating under
22 the bilateral agreement for purposes of trade enforcement
23 and compliance assessment activities of U.S. Customs and
24 Border Protection that concern evasion by such country's
25 exports.

1 (c) REPORT.—Not later than December 31 of each
2 year beginning after the date of the enactment of this Act,
3 the Secretary shall submit to the appropriate congres-
4 sional committees a report summarizing—

5 (1) the status of any ongoing negotiations of bi-
6 lateral agreements described in subsection (a), in-
7 cluding the identities of the countries involved in
8 such negotiations;

9 (2) the terms of any completed bilateral agree-
10 ments described in subsection (a); and

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

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

15 The principal negotiating objectives of the United
16 States shall include obtaining the objectives of the bilat-
17 eral agreements described under section 414(a) for any
18 trade agreements under negotiation as of the date of the
19 enactment of this Act or future trade agreement negotia-
20 tions.

1 **Subtitle B—Investigation of**
2 **Evasion of Trade Remedy Laws**

3 **SEC. 421. PROCEDURES FOR INVESTIGATION OF EVASION**
4 **OF ANTIDUMPING AND COUNTERVAILING**
5 **DUTY ORDERS.**

6 (a) IN GENERAL.—Title VII of the Tariff Act of
7 1930 (19 U.S.C. 1671 et seq.) is amended by inserting
8 after section 781 the following:

9 **“SEC. 781A. PROCEDURES FOR PREVENTION OF EVASION**
10 **OF ANTIDUMPING AND COUNTERVAILING**
11 **DUTY ORDERS.**

12 “(a) DEFINITIONS.—In this section:

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

16 “(2) COMMISSIONER.—The term ‘Commis-
17 sioner’ means the Commissioner of U.S. Customs
18 and Border Protection.

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

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

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

1 “(4) EVASION.—

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

14 “(B) EXCEPTION FOR CLERICAL ERROR.—

15 “(i) IN GENERAL.—Except as pro-
16 vided in clause (ii), the term ‘evasion’ does
17 not include entering covered merchandise
18 into the customs territory of the United
19 States by means of—

20 “(I) a document or electronically
21 transmitted data or information, writ-
22 ten or oral statement, or act that is
23 false as a result of a clerical error; or

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

1 “(ii) PATTERNS OF NEGLIGENT CON-
2 DUCT.—If the administering authority de-
3 termines that a person has entered covered
4 merchandise into the customs territory of
5 the United States by means of a clerical
6 error referred to in subclause (I) or (II) of
7 clause (i) and that the clerical error is part
8 of a pattern of negligent conduct on the
9 part of that person, the administering au-
10 thority may determine, notwithstanding
11 clause (i), that the person has entered such
12 covered merchandise into the customs ter-
13 ritory of the United States by means of
14 evasion.

15 “(iii) ELECTRONIC REPETITION OF
16 ERRORS.—For purposes of clause (ii), the
17 mere unintentional repetition by an elec-
18 tronic system of an initial clerical error
19 does not constitute a pattern of negligent
20 conduct.

21 “(iv) RULE OF CONSTRUCTION.—A
22 determination by the administering author-
23 ity that a person has entered covered mer-
24 chandise into the customs territory of the
25 United States by means of a clerical error

1 referred to in subclause (I) or (II) of
2 clause (i) rather than by means of evasion
3 shall not be construed to excuse that per-
4 son from the payment of any duties appli-
5 cable to the merchandise.

6 “(b) INVESTIGATION BY ADMINISTERING AUTHOR-
7 ITY.—

8 “(1) PROCEDURES FOR INITIATING INVESTIGA-
9 TIONS.—

10 “(A) INITIATION BY ADMINISTERING AU-
11 THORITY.—An investigation under this sub-
12 section shall be initiated with respect to mer-
13 chandise imported into the United States when-
14 ever the administering authority determines,
15 from information available to the administering
16 authority, that an investigation is warranted
17 with respect to whether the merchandise is cov-
18 ered merchandise that has entered into the cus-
19 toms territory of the United States by means of
20 evasion.

21 “(B) INITIATION BY PETITION OR REFER-
22 RAL.—

23 “(i) IN GENERAL.—The administering
24 authority shall determine whether to ini-
25 tiate an investigation under this subpara-

1 graph not later than 30 days after the date
2 on which the administering authority re-
3 ceives a petition described in clause (ii) or
4 a referral described in clause (iii).

5 “(ii) PETITION DESCRIBED.—A peti-
6 tion described in this clause is a petition
7 that—

8 “(I) is filed with the admin-
9 istering authority by an interested
10 party specified in subparagraph (A),
11 (C), (D), (E), (F), or (G) of section
12 771(9);

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

19 “(III) is accompanied by infor-
20 mation reasonably available to the pe-
21 titioner supporting those allegations.

22 “(iii) REFERRAL DESCRIBED.—A re-
23 ferral described in this clause is a referral
24 made by the Commissioner pursuant to
25 subsection (c)(1).

1 “(2) TIME LIMITS FOR DETERMINATIONS.—

2 “(A) PRELIMINARY DETERMINATION.—

3 “(i) IN GENERAL.—Not later than 90
4 days after the administering authority ini-
5 tiates an investigation under paragraph (1)
6 with respect to merchandise, the admin-
7 istering authority shall issue a preliminary
8 determination, based on information avail-
9 able to the administering authority at the
10 time of the determination, with respect to
11 whether there is a reasonable basis to be-
12 lieve or suspect that the merchandise is
13 covered merchandise that has entered into
14 the customs territory of the United States
15 by means of evasion.

16 “(ii) EXPEDITED PROCEDURES.—If
17 the administering authority determines
18 that expedited action is warranted with re-
19 spect to an investigation initiated under
20 paragraph (1), the administering authority
21 may publish the notice of initiation of the
22 investigation and the notice of the prelimi-
23 nary determination in the Federal Register
24 at the same time.

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

11 “(3) ACCESS TO INFORMATION.—

12 “(A) ENTRY DOCUMENTS, RECORDS, AND
13 OTHER INFORMATION.—Not later than 10 days
14 after receiving a request from the administering
15 authority with respect to merchandise that is
16 the subject of an investigation under paragraph
17 (1), the Commissioner shall transmit to the ad-
18 ministering authority copies of the documenta-
19 tion and information required by section
20 484(a)(1) with respect to the entry of the mer-
21 chandise, as well as any other documentation or
22 information requested by the administering au-
23 thority.

24 “(B) ACCESS OF INTERESTED PARTIES.—
25 Not later than 10 business days after the date

1 on which the administering authority initiates
2 an investigation under paragraph (1) with re-
3 spect to merchandise, the administering author-
4 ity shall provide to the authorized representa-
5 tive of each interested party that filed a petition
6 under paragraph (1) or otherwise participates
7 in a proceeding, pursuant to a protective order,
8 the copies of the entry documentation and any
9 other information received by the administering
10 authority under subparagraph (A).

11 “(C) BUSINESS PROPRIETARY INFORMA-
12 TION FROM PRIOR SEGMENTS.—If an author-
13 ized representative of an interested party par-
14 ticipating in an investigation under paragraph
15 (1) has access to business proprietary informa-
16 tion released pursuant to an administrative pro-
17 tective order in a proceeding under subtitle A,
18 B, or C of title VII of the Tariff Act of 1930
19 that is relevant to the investigation conducted
20 under paragraph (1), that authorized represent-
21 ative may submit such information to the ad-
22 ministering authority for its consideration in
23 the context of the investigation conducted under
24 paragraph (1).

1 “(4) AUTHORITY TO COLLECT AND VERIFY AD-
2 DITIONAL INFORMATION.—In making a determina-
3 tion under paragraph (2) with respect to covered
4 merchandise, the administering authority may collect
5 such additional information as is necessary to make
6 the determination through such methods as the ad-
7 ministering authority considers appropriate, includ-
8 ing by—

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

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

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

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

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

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

4 “(C) requesting—

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

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

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

22 “(6) EFFECT OF AFFIRMATIVE PRELIMINARY
23 DETERMINATION.—If the administering authority
24 makes a preliminary determination under paragraph
25 (2)(A) that merchandise is covered merchandise that

1 has entered into the customs territory of the United
2 States by means of evasion, the administering au-
3 thority shall instruct U.S. Customs and Border Pro-
4 tection—

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

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

9 “(ii) enters before that date, if the liq-
10 uidation of the entry is not final on that
11 date; and

12 “(B) to require the posting of a cash de-
13 posit for each entry of the merchandise in an
14 amount determined pursuant to the order, or
15 administrative review conducted under section
16 751, that applies to the merchandise.

17 “(7) EFFECT OF AFFIRMATIVE FINAL DETER-
18 MINATION.—

19 “(A) IN GENERAL.—If the administering
20 authority makes a final determination under
21 paragraph (2)(B) that merchandise is covered
22 merchandise that has entered into the customs
23 territory of the United States by means of eva-
24 sion, the administering authority shall instruct
25 U.S. Customs and Border Protection—

1 “(i) to assess duties on the merchan-
2 dise in an amount determined pursuant to
3 the order, or administrative review con-
4 ducted under section 751, that applies to
5 the merchandise;

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

12 “(iii) to review and reassess the
13 amount of bond or other security the im-
14 porter is required to post for such mer-
15 chandise entered on or after the date of
16 the final determination to ensure the pro-
17 tection of revenue and compliance with the
18 law.

19 “(B) **ADDITIONAL AUTHORITY.**—If the ad-
20 ministering authority makes a final determina-
21 tion under paragraph (2)(B) that merchandise
22 is covered merchandise that has entered into
23 the customs territory of the United States by
24 means of evasion, the administering authority
25 may instruct U.S. Customs and Border Protec-

1 tion to require the importer of the merchandise
2 to post a cash deposit or bond on such mer-
3 chandise entered on or after the date of the
4 final determination in an amount the admin-
5 istering authority determines in the final deter-
6 mination to be owed with respect to the mer-
7 chandise.

8 “(8) EFFECT OF NEGATIVE FINAL DETERMINA-
9 TION.—If the administering authority makes a final
10 determination under paragraph (2)(B) that mer-
11 chandise is not covered merchandise that has en-
12 tered into the customs territory of the United States
13 by means of evasion, the administering authority
14 shall terminate the suspension of liquidation and re-
15 fund any cash deposit imposed pursuant to para-
16 graph (6) with respect to the merchandise.

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

1 States in accordance with all applicable laws and
2 regulations.

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

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

24 “(12) REFERRALS TO OTHER AGENCIES.—

1 “(A) AFTER PRELIMINARY DETERMINA-
2 TION.—Notwithstanding section 777 and sub-
3 ject to subparagraph (C), when the admin-
4 istering authority makes an affirmative prelimi-
5 nary determination under paragraph (2)(A), the
6 administering authority shall—

7 “(i) transmit the administrative
8 record to the Commissioner for such addi-
9 tional action as the Commissioner deter-
10 mines appropriate, including proceedings
11 under section 592; and

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

15 “(B) AFTER FINAL DETERMINATION.—
16 Notwithstanding section 777 and subject to
17 subparagraph (C), when the administering au-
18 thority makes an affirmative final determina-
19 tion under paragraph (2)(B), the administering
20 authority shall—

21 “(i) transmit the complete administra-
22 tive record to the Commissioner; and

23 “(ii) at the request of the head of an-
24 other agency, transmit the complete ad-

1 ministrative record to the head of that
2 agency.

3 “(e) REFERRAL BY U.S. CUSTOMS AND BORDER
4 PROTECTION.—In the event the Commissioner receives in-
5 formation that a person has entered covered merchandise
6 into the customs territory of the United States through
7 evasion, but is not able to determine whether the merchan-
8 dise is in fact covered merchandise, the Commissioner
9 shall—

10 “(1) refer the matter to the administering au-
11 thority for additional proceedings under subsection
12 (b); and

13 “(2) transmit to the administering authority—
14 “(A) copies of the entry documents and in-
15 formation required by section 484(a)(1) relating
16 to the merchandise; and

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

19 “(d) COOPERATION BETWEEN U.S. CUSTOMS AND
20 BORDER PROTECTION AND THE DEPARTMENT OF COM-
21 MERCE.—

22 “(1) NOTIFICATION OF INVESTIGATIONS.—
23 Upon receiving a petition and upon initiating an in-
24 vestigation under subsection (b), the administering
25 authority shall notify the Commissioner.

1 “(2) PROCEDURES FOR COOPERATION.—Not
2 later than 180 days after the date of the enactment
3 of the Trade Facilitation and Trade Enforcement
4 Act of 2015, the Commissioner and the admin-
5 istering authority shall establish procedures to en-
6 sure maximum cooperation and communication be-
7 tween U.S. Customs and Border Protection and the
8 administering authority in order to quickly, effi-
9 ciently, and accurately investigate allegations of eva-
10 sion of antidumping and countervailing duty orders.

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

13 “(1) IN GENERAL.—Not later than February
14 28 of each year beginning in 2016, the Under Sec-
15 retary for International Trade of the Department of
16 Commerce shall submit to the Committee on Fi-
17 nance and the Committee on Appropriations of the
18 Senate and the Committee on Ways and Means and
19 the Committee on Appropriations of the House of
20 Representatives a report on the efforts being taken
21 under subsection (b) to prevent evasion of anti-
22 dumping and countervailing duty orders.

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

1 “(A)(i) the number of investigations initi-
2 ated pursuant to subsection (b); and

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

5 “(I) the results of such investigations;
6 and

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

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

12 (b) *TECHNICAL AMENDMENT.*—The table of contents
13 for title VII of the Tariff Act of 1930 is amended by in-
14 serting after the item relating to section 781 the following:

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

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

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

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

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

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

1 (2) the actions taken and procedures developed
2 by the Secretary of Commerce and the Commis-
3 sioner pursuant to such provisions and amendments
4 to prevent evasion of antidumping and counter-
5 vailing duty orders under title VII of the Tariff Act
6 of 1930 (19 U.S.C. 1671 et seq.).

7 **Subtitle C—Other Matters**

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

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

11 (1) employs sufficient personnel who have ex-
12 pertise in, and responsibility for, preventing and in-
13 vestigating the entry of covered merchandise into the
14 customs territory of the United States through eva-
15 sion;

16 (2) on the basis of risk assessment metrics, as-
17 signs sufficient personnel with primary responsibility
18 for preventing the entry of covered merchandise into
19 the customs territory of the United States through
20 evasion to the ports of entry in the United States at
21 which the Commissioner determines potential eva-
22 sion presents the most substantial threats to the rev-
23 enue of the United States; and

24 (3) provides adequate training to relevant per-
25 sonnel to increase expertise and effectiveness in the

1 prevention and identification of entries of covered
2 merchandise into the customs territory of the United
3 States through evasion.

4 **SEC. 432. ANNUAL REPORT ON PREVENTION OF EVASION**
5 **OF ANTIDUMPING AND COUNTERVAILING**
6 **DUTY ORDERS.**

7 (a) IN GENERAL.—Not later than February 28 of
8 each year, beginning in 2016, the Commissioner, in con-
9 sultation with the Secretary of Commerce and the Director
10 of U.S. Immigration and Customs Enforcement, shall sub-
11 mit to the appropriate congressional committees a report
12 on the efforts being taken to prevent and investigate eva-
13 sion.

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

16 (1) for the calendar year preceding the submis-
17 sion of the report—

18 (A) a summary of the efforts of U.S. Cus-
19 toms and Border Protection to prevent and
20 identify evasion;

21 (B) the number of allegations of evasion
22 received and the number of allegations of eva-
23 sion resulting in any administrative, civil, or
24 criminal actions by U.S. Customs and Border
25 Protection or any other agency;

1 (C) a summary of the completed adminis-
2 trative inquiries of evasion, including the num-
3 ber and nature of the inquiries initiated, con-
4 ducted, or completed, as well as their resolu-
5 tion;

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

9 (E) the amounts of antidumping and coun-
10 tervailing duties collected as a result of any ac-
11 tions by U.S. Customs and Border Protection
12 or any other agency;

13 (F) a description of the allocation of per-
14 sonnel and other resources of U.S. Customs and
15 Border Protection and U.S. Immigration and
16 Customs Enforcement to prevent, identify, and
17 investigate evasion, including any assessments
18 conducted regarding the allocation of such per-
19 sonnel and resources; and

20 (G) a description of training conducted to
21 increase expertise and effectiveness in the pre-
22 vention, identification, and investigation of eva-
23 sion; and

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

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

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

11 (C) identification of any changes since the
12 last report that have materially improved or re-
13 duced the effectiveness of U.S. Customs and
14 Border Protection to prevent and identify eva-
15 sion;

16 (D) a description of the development and
17 implementation of policies for the application of
18 single entry and continuous bonds for entries of
19 covered merchandise to sufficiently protect the
20 collection of antidumping and countervailing
21 duties commensurate with the level of risk on
22 noncollection;

23 (E) the processes and procedures for in-
24 creased cooperation and information sharing
25 with the Department of Commerce, U.S. Immi-

1 gration and Customs Enforcement, and any
2 other relevant Federal agencies to prevent and
3 identify evasion; and

4 (F) identification of any recommended pol-
5 icy changes of other Federal agencies or legisla-
6 tive changes to improve the effectiveness of
7 U.S. Customs and Border Protection to prevent
8 and identify evasion.

9 **SEC. 433. ADDRESSING CIRCUMVENTION BY NEW SHIP-**
10 **PERS.**

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

13 (1) by striking clause (iii);

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

15 and

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

18 “(iv) DETERMINATIONS BASED ON
19 BONAFIDE SALES.—Any weighted average
20 dumping margin or individual counter-
21 vailing duty rate determined for an ex-
22 porter or producer in a review conducted
23 under clause (i) shall be based solely on
24 the bona fide United States sales of an ex-
25 porter or producer, as the case may be,

1 made during the period covered by the re-
2 view. In determining whether the United
3 States sales of an exporter or producer
4 made during the period covered by the re-
5 view were bona fide, the administering au-
6 thority shall consider, depending on the
7 circumstances surrounding such sales—

8 “(I) the prices of such sales;

9 “(II) whether such sales were
10 made in commercial quantities;

11 “(III) the timing of such sales;

12 “(IV) the expenses arising from
13 such sales;

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

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

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

1 **TITLE V—IMPROVEMENTS TO**
2 **ANTIDUMPING AND COUN-**
3 **TERVAILING DUTY LAWS**

4 **SEC. 501. SHORT TITLE.**

5 This title may be cited as the “American Trade En-
6 forcement Effectiveness Act”.

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

10 Section 776 of the Tariff Act of 1930 (19 U.S.C.
11 1677e) is amended—

12 (1) in subsection (b)—

13 (A) by redesignating paragraphs (1)
14 through (4) as subparagraphs (A) through (D),
15 respectively, and by moving such subpara-
16 graphs, as so redesignated, 2 ems to the right;

17 (B) by striking “ADVERSE INFERENCES.—
18 If” and inserting the following: “ADVERSE IN-
19 FERENCES.—

20 “(1) IN GENERAL.—If”;

21 (C) by striking “under this title, may use”
22 and inserting the following: “under this title—
23 “(A) may use”; and

24 (D) by striking “facts otherwise available.
25 Such adverse inference may include” and in-

1 serting the following: “facts otherwise available;
2 and

3 “(B) is not required to determine, or make
4 any adjustments to, a countervailable subsidy
5 rate or weighted average dumping margin based
6 on any assumptions about information the in-
7 terested party would have provided if the inter-
8 ested party had complied with the request for
9 information.

10 “(2) POTENTIAL SOURCES OF INFORMATION
11 FOR ADVERSE INFERENCES.—An adverse inference
12 under paragraph (1)(A) may include”;

13 (2) in subsection (c)—

14 (A) by striking “CORROBORATION OF SEC-
15 ONDARY INFORMATION.—When the” and in-
16 serting the following: “CORROBORATION OF
17 SECONDARY INFORMATION.—

18 “(1) IN GENERAL.—Except as provided in para-
19 graph (2), when the”;

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

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

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

2 “(d) SUBSIDY RATES AND DUMPING MARGINS IN
3 ADVERSE INFERENCE DETERMINATIONS.—

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

9 “(A) in the case of a countervailing duty
10 proceeding—

11 “(i) use a countervailable subsidy rate
12 applied for the same or similar program in
13 a countervailing duty proceeding involving
14 the same country, or

15 “(ii) if there is no same or similar
16 program, use a countervailable subsidy
17 rate for a subsidy program from a pro-
18 ceeding that the administering authority
19 considers reasonable to use, and

20 “(B) in the case of an antidumping duty
21 proceeding, use any dumping margin from any
22 segment of the proceeding under the applicable
23 antidumping order.

24 “(2) DISCRETION TO APPLY HIGHEST RATE.—

25 In carrying out paragraph (1), the administering au-

1 thority may apply any of the countervailable subsidy
2 rates or dumping margins specified under that para-
3 graph, including the highest such rate or margin,
4 based on the evaluation by the administering author-
5 ity of the situation that resulted in the admin-
6 istering authority using an adverse inference in se-
7 lecting among the facts otherwise available.

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

15 “(A) to estimate what the countervailable
16 subsidy rate or dumping margin would have
17 been if the interested party found to have failed
18 to cooperate under subsection (b)(1) had co-
19 operated, or

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

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

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

6 “(J) EFFECT OF PROFITABILITY.—The
7 Commission may not determine that there is no
8 material injury or threat of material injury to
9 an industry in the United States merely be-
10 cause that industry is profitable or because the
11 performance of that industry has recently im-
12 proved.”.

13 (b) EVALUATION OF IMPACT ON DOMESTIC INDUS-
14 TRY IN DETERMINATION OF MATERIAL INJURY.—Sub-
15 clause (I) of section 771(7)(C)(iii) of the Tariff Act of
16 1930 (19 U.S.C. 1677(7)(C)(iii)) is amended to read as
17 follows:

18 “(I) actual and potential decline
19 in output, sales, market share, gross
20 profits, operating profits, net profits,
21 ability to service debt, productivity,
22 return on investments, return on as-
23 sets, and utilization of capacity,”.

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

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

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

5 (3) by striking subclause (III).

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

7 (a) DEFINITION OF ORDINARY COURSE OF TRADE.—
8 Section 771(15) of the Tariff Act of 1930 (19 U.S.C.
9 1677(15)) is amended by adding at the end the following:

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

14 (b) DEFINITION OF NORMAL VALUE.—Section
15 773(a)(1)(B)(ii)(III) of the Tariff Act of 1930 (19 U.S.C.
16 1677b(a)(1)(B)(ii)(III)) is amended by striking “in such
17 other country.”.

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

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

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

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

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

14 (a) INVESTIGATION OF BELOW-COST SALES.—Sec-
15 tion 773(b)(2) of the Tariff Act of 1930 (19 U.S.C.
16 1677b(b)(2)) is amended by striking subparagraph (A)
17 and inserting the following:

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

20 “(i) REVIEW.—In a review conducted
21 under section 751 involving a specific ex-
22 porter, there are reasonable grounds to be-
23 lieve or suspect that sales of the foreign
24 like product have been made at prices that
25 are less than the cost of production of the

1 product if the administering authority dis-
2 regarded some or all of the exporter's sales
3 pursuant to paragraph (1) in the investiga-
4 tion or, if a review has been completed, in
5 the most recently completed review.

6 “(ii) REQUESTS FOR INFORMATION.—
7 In an investigation initiated under section
8 732 or a review conducted under section
9 751, the administering authority shall re-
10 quest information necessary to calculate
11 the constructed value and cost of produc-
12 tion under subsections (e) and (f) to deter-
13 mine whether there are reasonable grounds
14 to believe or suspect that sales of the for-
15 eign like product have been made at prices
16 that represent less than the cost of produc-
17 tion of the product.”.

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

22 “(5) DISCRETION TO DISREGARD CERTAIN
23 PRICE OR COST VALUES.—In valuing the factors of
24 production under paragraph (1) for the subject mer-
25 chandise, the administering authority may disregard

1 price or cost values without further investigation if
2 the administering authority has determined that
3 broadly available export subsidies existed or par-
4 ticular instances of subsidization occurred with re-
5 spect to those price or cost values or if those price
6 or cost values were subject to an antidumping
7 order.”.

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

11 Section 782(a) of the Tariff Act of 1930 (19 U.S.C.
12 1677m(a)) is amended—

13 (1) in paragraph (1), by redesignating subpara-
14 graphs (A) and (B) as clauses (i) and (ii), respec-
15 tively, and by moving such clauses, as so redesign-
16 ated, 2 ems to the right;

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

21 (3) by striking “INVESTIGATIONS AND RE-
22 VIEWS.—In” and inserting the following: “INVES-
23 TIGATIONS AND REVIEWS.—

24 “(1) IN GENERAL.—In”;

1 (4) in paragraph (1), as designated by para-
2 graph (3), by amending subparagraph (B), as redes-
3 ignated by paragraph (2), to read as follows:

4 “(B) the number of exporters or producers
5 subject to the investigation or review is not so
6 large that any additional individual examination
7 of such exporters or producers would be unduly
8 burdensome to the administering authority and
9 inhibit the timely completion of the investiga-
10 tion or review.”; and

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

12 “(2) DETERMINATION OF UNDULY BURDEN-
13 SOME.—In determining if an individual examination
14 under paragraph (1)(B) would be unduly burden-
15 some, the administering authority may consider the
16 following:

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

20 “(B) Any prior experience of the admin-
21 istering authority in the same or similar pro-
22 ceeding.

23 “(C) The total number of investigations
24 under subtitle A or B and reviews under section

1 751 being conducted by the administering au-
2 thority as of the date of the determination.

3 “(D) Such other factors relating to the
4 timely completion of each such investigation
5 and review as the administering authority con-
6 siders appropriate.”.

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

8 Pursuant to article 1902 of the North American Free
9 Trade Agreement and section 408 of the North American
10 Free Trade Agreement Implementation Act (19 U.S.C.
11 3438), the amendments made by this title shall apply with
12 respect to goods from Canada and Mexico.

13 **TITLE VI—ADDITIONAL**
14 **ENFORCEMENT PROVISIONS**

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

16 (a) IN GENERAL.—Section 310 of the Trade Act of
17 1974 (19 U.S.C. 2420) is amended to read as follows:

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

19 “(a) TRADE ENFORCEMENT PRIORITIES, CONSULTA-
20 TIONS, AND REPORT.—

21 “(1) TRADE ENFORCEMENT PRIORITIES CON-
22 SULTATIONS.—Not later than May 31 of each cal-
23 endar year that begins after the date of the enact-
24 ment of the Trade Facilitation and Trade Enforce-
25 ment Act of 2015, the United States Trade Rep-

1 representative (in this section referred to as the ‘Trade
2 Representative’) shall consult with the Committee on
3 Finance of the Senate and the Committee on Ways
4 and Means of the House of Representatives with re-
5 spect to the prioritization of acts, policies, or prac-
6 tices of foreign governments that raise concerns with
7 respect to obligations under the WTO Agreements or
8 any other trade agreement to which the United
9 States is a party, or otherwise create or maintain
10 barriers to United States goods, services, or invest-
11 ment.

12 “(2) IDENTIFICATION OF TRADE ENFORCE-
13 MENT PRIORITIES.—In identifying acts, policies, or
14 practices of foreign governments as trade enforce-
15 ment priorities under this subsection, the United
16 States Trade Representative shall focus on those
17 acts, policies, and practices the elimination of which
18 is likely to have the most significant potential to in-
19 crease United States economic growth, and take into
20 account all relevant factors, including—

21 “(A) the economic significance of any po-
22 tential inconsistency between an obligation as-
23 sumed by a foreign government pursuant to a
24 trade agreement to which both the foreign gov-
25 ernment and the United States are parties and

1 the acts, policies, or practices of that govern-
2 ment;

3 “(B) the impact of the acts, policies, or
4 practices of a foreign government on maintain-
5 ing and creating United States jobs and pro-
6 ductive capacity;

7 “(C) the major barriers and trade dis-
8 torting practices described in the most recent
9 National Trade Estimate required under section
10 181(b);

11 “(D) the major barriers and trade dis-
12 torting practices described in other relevant re-
13 ports addressing international trade and invest-
14 ment barriers prepared by a Federal agency or
15 congressional commission during the 12 months
16 preceding the date of the most recent report
17 under paragraph (3);

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

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

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

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

6 “(A) IN GENERAL.—Not later than July
7 31 of each calendar year that begins after the
8 date of the enactment of the Trade Facilitation
9 and Trade Enforcement Act of 2015, the Trade
10 Representative shall submit to the Committee
11 on Finance of the Senate and the Committee on
12 Ways and Means of the House of Representa-
13 tives a report on acts, policies, or practices of
14 foreign governments identified as trade enforce-
15 ment priorities based on the consultations
16 under paragraph (1) and the criteria set forth
17 in paragraph (2).

18 “(B) REPORT IN SUBSEQUENT YEARS.—
19 The Trade Representative shall include, when
20 reporting under subparagraph (A) in any cal-
21 endar year after the calendar year that begins
22 after the date of the enactment of the Trade
23 Facilitation and Trade Enforcement Act of
24 2015, a description of actions taken to address
25 any acts, policies, or practices of foreign gov-

1 ernments identified as trade enforcement prior-
2 ities under this subsection in the calendar year
3 preceding that report and, as relevant, any year
4 before that calendar year.

5 “(b) SEMI-ANNUAL ENFORCEMENT CONSULTA-
6 TIONS.—

7 “(1) IN GENERAL.—At the same time as the re-
8 porting under subsection (a)(3), and not later than
9 January 31 of each following year, the Trade Rep-
10 resentative shall consult with the Committee on Fi-
11 nance of the Senate and the Committee on Ways
12 and Means of the House of Representatives with re-
13 spect to the identification, prioritization, investiga-
14 tion, and resolution of acts, policies, or practices of
15 foreign governments of concern with respect to obli-
16 gations under the WTO Agreements or any other
17 trade agreement to which the United States is a
18 party, or that otherwise create or maintain trade
19 barriers.

20 “(2) ACTS, POLICIES, OR PRACTICES OF CON-
21 CERN.—The semi-annual enforcement consultations
22 required by paragraph (1) shall address acts, poli-
23 cies, or practices of foreign governments that raise
24 concerns with respect to obligations under the WTO
25 Agreements or any other trade agreement to which

1 the United States is a party, or otherwise create or
2 maintain trade barriers, including—

3 “(A) engagement with relevant trading
4 partners;

5 “(B) strategies for addressing such con-
6 cerns;

7 “(C) availability and deployment of re-
8 sources to be used in the investigation or reso-
9 lution of such concerns;

10 “(D) the merits of any potential dispute
11 resolution proceeding under the WTO Agree-
12 ments or any other trade agreement to which
13 the United States is a party relating to such
14 concerns; and

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

16 “(3) ACTIVE INVESTIGATIONS.—The semi-an-
17 nual enforcement consultations required by para-
18 graph (1) shall address acts, policies, or practices
19 that the Trade Representative is actively inves-
20 tigating with respect to obligations under the WTO
21 Agreements or any other trade agreement to which
22 the United States is a party, including—

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

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

3 “(C) the merits of any potential dispute
4 resolution proceeding under the WTO Agree-
5 ments or any other trade agreement to which
6 the United States is a party with respect to
7 such acts, policies, or practices;

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

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

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

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

22 “(B) the merits of such actions;

23 “(C) any prospective implementation ac-
24 tions;

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

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

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

7 “(5) ENFORCEMENT RESOURCES.—The semi-
8 annual enforcement consultations required by para-
9 graph (1) shall address the availability and deploy-
10 ment of enforcement resources, resource constraints
11 on monitoring and enforcement activities, and strat-
12 egies to address those constraints, including the use
13 of available resources of other Federal agencies to
14 enhance monitoring and enforcement capabilities.

15 “(c) INVESTIGATION AND RESOLUTION.—In the case
16 of any acts, policies, or practices of a foreign government
17 identified as a trade enforcement priority under subsection
18 (a), the Trade Representative shall, not later than the date
19 of the first semi-annual enforcement consultations held
20 under subsection (b) after the identification of the pri-
21 ority, take appropriate action to address that priority, in-
22 cluding—

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

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

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

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

11 “(d) ENFORCEMENT NOTIFICATIONS AND CON-
12 SULTATION.—

13 “(1) INITIATION OF ENFORCEMENT ACTION.—

14 The Trade Representative shall notify and consult
15 with the Committee on Finance of the Senate and
16 the Committee on Ways and Means of the House of
17 Representatives in advance of initiation of any for-
18 mal trade dispute by or against the United States
19 taken in regard to an obligation under the WTO
20 Agreements or any other trade agreement to which
21 the United States is a party. With respect to a for-
22 mal trade dispute against the United States, if ad-
23 vance notification and consultation are not possible,
24 the Trade Representative shall notify and consult at

1 the earliest practicable opportunity after initiation of
2 the dispute.

3 “(2) CIRCULATION OF REPORTS.—The Trade
4 Representative shall notify and consult with the
5 Committee on Finance of the Senate and the Com-
6 mittee on Ways and Means of the House of Rep-
7 resentatives in advance of the announced or antici-
8 pated circulation of any report of a dispute settle-
9 ment panel or the Appellate Body of the World
10 Trade Organization or of a dispute settlement panel
11 under any other trade agreement to which the
12 United States is a party with respect to a formal
13 trade dispute by or against the United States.

14 “(e) DEFINITIONS.—In this section:

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

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

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

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

“Sec. 310. Trade enforcement priorities.”.

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

7 (a) IN GENERAL.—Section 306 of the Trade Act of
8 1974 (19 U.S.C. 2416) is amended—

9 (1) by redesignating subsection (c) as sub-
10 section (d); and

11 (2) by inserting after subsection (b) the fol-
12 lowing:

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

15 “(1) action has terminated pursuant to section
16 307(c),

17 “(2) the petitioner or any representative of the
18 domestic industry that would benefit from reinstatement
19 of action has submitted to the Trade Rep-
20 resentative a written request for reinstatement of ac-
21 tion, and

22 “(3) the Trade Representatives has completed
23 the requirements of subsection (d) and section
24 307(c)(3),

1 the Trade Representative may at any time determine to
2 take action under section 301(c) to exercise an authoriza-
3 tion to suspend concessions or other obligations under Ar-
4 ticle 22 of the Understanding on Rules and Procedures
5 Governing the Settlement of Disputes (referred to in sec-
6 tion 101(d)(16) of the Uruguay Round Agreements Act
7 (19 U.S.C. 3511(d)(16))).”.

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

11 (1) in section 301(c)(1) (19 U.S.C. 2411(c)(1)),
12 in the matter preceding subparagraph (A), by insert-
13 ing “or section 306(c)” after “subsection (a) or
14 (b)”;

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

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

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

1 **SEC. 603. TRADE MONITORING.**

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

5 **“SEC. 205. TRADE MONITORING.**

6 “(a) MONITORING TOOL FOR IMPORTS.—

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

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

22 “(3) PERIODS OF TIME.—The Commission shall
23 ensure that data accessed through the monitoring
24 tool under paragraph (1) includes data for the most
25 recent quarter for which such data are available and

1 previous quarters as the Commission considers prac-
2 ticable.

3 “(b) MONITORING REPORTS.—

4 “(1) IN GENERAL.—Not later than 270 days
5 after the date of the enactment of this section, and
6 not less frequently than quarterly thereafter, the
7 Secretary of Commerce shall publish on a website of
8 the Department of Commerce, and notify the Com-
9 mittee on Finance of the Senate and the Committee
10 on Ways and Means of the House of Representatives
11 of the availability of, a monitoring report on changes
12 in the volume and value of trade with respect to im-
13 ports and exports of goods categorized based on the
14 6-digit subheading number of the goods under the
15 Harmonized Tariff Schedule of the United States
16 during the most recent quarter for which such data
17 are available and previous quarters as the Secretary
18 considers practicable.

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

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

4 (b) CLERICAL AMENDMENT.—The table of contents
5 for the Trade Act of 1974 (19 U.S.C. 2101 et seq.) is
6 amended by inserting after the item relating to section
7 204 the following:

“Sec. 205. Trade monitoring.”.

8 **TITLE VII—CURRENCY**
9 **MANIPULATION**

10 **SEC. 701. ENHANCEMENT OF ENGAGEMENT ON CURRENCY**
11 **EXCHANGE RATE AND ECONOMIC POLICIES**
12 **WITH CERTAIN MAJOR TRADING PARTNERS**
13 **OF THE UNITED STATES.**

14 (a) MAJOR TRADING PARTNER REPORT.—

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

22 (2) ELEMENTS.—

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

- 1 (i) for each country that is a major
2 trading partner of the United States—
- 3 (I) that country's bilateral trade
4 balance with the United States;
- 5 (II) that country's current ac-
6 count balance as a percentage of its
7 gross domestic product;
- 8 (III) the change in that country's
9 current account balance as a percent-
10 age of its gross domestic product dur-
11 ing the 3-year period preceding the
12 submission of the report;
- 13 (IV) that country's foreign ex-
14 change reserves as a percentage of its
15 short-term debt; and
- 16 (V) that country's foreign ex-
17 change reserves as a percentage of its
18 gross domestic product; and
- 19 (ii) an enhanced analysis of macro-
20 economic and exchange rate policies for
21 each country—
- 22 (I) that is a major trading part-
23 ner of the United States;

1 (II) the currency of which is per-
2 sistently and substantially under-
3 valued;

4 (III) that has—

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

8 (bb) a material global cur-
9 rent account surplus; and

10 (IV) that has engaged in per-
11 sistent one-sided intervention in the
12 foreign exchange market.

13 (B) ENHANCED ANALYSIS.—Each en-
14 hanced analysis under subparagraph (A)(ii)
15 shall include, for each country with respect to
16 which an analysis is made under that subpara-
17 graph—

18 (i) a description of developments in
19 the currency markets of that country, in-
20 cluding, to the greatest extent feasible, de-
21 velopments with respect to currency inter-
22 ventions;

23 (ii) a description of trends in the real
24 effective exchange rate of the currency of

1 that country and in the degree of under-
2 valuation of that currency;

3 (iii) an analysis of changes in the cap-
4 ital controls and trade restrictions of that
5 country; and

6 (iv) patterns in the reserve accumula-
7 tion of that country.

8 (b) ENGAGEMENT ON EXCHANGE RATE AND ECO-
9 NOMIC POLICIES.—

10 (1) IN GENERAL.—Except as provided in para-
11 graph (2), the President, through the Secretary,
12 shall commence enhanced bilateral engagement with
13 each country for which an enhanced analysis of mac-
14 roeconomic and currency exchange rate policies is in-
15 cluded in the report submitted under subsection (a),
16 in order to—

17 (A) urge implementation of policies to ad-
18 dress the causes of the undervaluation of its
19 currency, its bilateral trade surplus with the
20 United States, and its material global current
21 account surplus, including undervaluation and
22 surpluses relating to exchange rate manage-
23 ment;

24 (B) express the concern of the United
25 States with respect to the adverse trade and

1 economic effects of that undervaluation and
2 those surpluses;

3 (C) develop measurable objectives for ad-
4 dressing that undervaluation and those sur-
5 pluses; and

6 (D) advise that country of the ability of
7 the President to take action under subsection
8 (c).

9 (2) EXCEPTION.—The Secretary may determine
10 not to enhance bilateral engagement with a country
11 under paragraph (1) for which an enhanced analysis
12 of macroeconomic and exchange rate policies is in-
13 cluded in the report submitted under subsection (a)
14 if the Secretary submits to the appropriate commit-
15 tees of Congress a report that describes how the cur-
16 rency and other macroeconomic policies of that
17 country are addressing the undervaluation and sur-
18 pluses specified in paragraph (1)(A) with respect to
19 that country, including undervaluation and surpluses
20 relating to exchange rate management.

21 (c) REMEDIAL ACTION.—

22 (1) IN GENERAL.—If, on the date that is one
23 year after the commencement of enhanced bilateral
24 engagement by the President with respect to a coun-
25 try under subsection (b)(1), the country has failed to

1 adopt appropriate policies to correct the undervalu-
2 ation and surpluses described in subsection
3 (b)(1)(A) with respect to that country, the President
4 may take one or more of the following actions:

5 (A) Prohibit the Overseas Private Invest-
6 ment Corporation from approving, on and after
7 such date, any new financing (including any in-
8 surance, reinsurance, or guarantee) with respect
9 to a project located in that country.

10 (B) Except as provided in paragraph (2),
11 and pursuant to paragraph (3), prohibit the
12 Federal Government from procuring, or enter-
13 ing into any contract for the procurement of,
14 goods or services from that country on and
15 after such date.

16 (C) Instruct the United States Executive
17 Director of the International Monetary Fund to
18 use the voice and vote of the United States to
19 call for additional rigorous surveillance of the
20 macroeconomic and exchange rate policies of
21 that country and, as appropriate, formal con-
22 sultations on findings of currency manipulation.

23 (D) Instruct the United States Trade Rep-
24 resentative to take into account, in consultation
25 with the Secretary, in assessing whether to

1 enter into a bilateral or regional trade agree-
2 ment with that country or to initiate or partici-
3 pate in negotiations with respect to a bilateral
4 or regional trade agreement with that country,
5 the extent to which that country has failed to
6 adopt appropriate policies to correct the under-
7 valuation and surpluses described in subsection
8 (b)(1)(A).

9 (2) EXCEPTION.—The President may not apply
10 a prohibition under paragraph (1)(B) with respect to
11 a country that is a party to the Agreement on Gov-
12 ernment Procurement or a free trade agreement to
13 which the United States is a party.

14 (3) CONSULTATIONS.—

15 (A) OFFICE OF MANAGEMENT AND BUDG-
16 ET.—Before applying a prohibition under para-
17 graph (1)(B), the President shall consult with
18 the Director of the Office of Management and
19 Budget to determine whether such prohibition
20 would subject the taxpayers of the United
21 States to unreasonable cost.

22 (B) CONGRESS.—The President shall con-
23 sult with the appropriate committees of Con-
24 gress with respect to any action the President
25 takes under paragraph (1)(B), including wheth-

1 er the President has consulted as required
2 under subparagraph (A).

3 (d) DEFINITIONS.—In this section:

4 (1) AGREEMENT ON GOVERNMENT PROCURE-
5 MENT.—The term “Agreement on Government Pro-
6 curement” means the agreement referred to in sec-
7 tion 101(d)(17) of the Uruguay Round Agreements
8 Act (19 U.S.C. 3511(d)(17)).

9 (2) APPROPRIATE COMMITTEES OF CON-
10 GRESS.—The term “appropriate committees of Con-
11 gress” means—

12 (A) the Committee on Banking, Housing,
13 and Urban Affairs and the Committee on Fi-
14 nance of the Senate; and

15 (B) the Committee on Financial Services
16 and the Committee on Ways and Means of the
17 House of Representatives.

18 (3) COUNTRY.—The term “country” means a
19 foreign country, dependent territory, or possession of
20 a foreign country, and may include an association of
21 2 or more foreign countries, dependent territories, or
22 possessions of countries into a customs union out-
23 side the United States.

24 (4) REAL EFFECTIVE EXCHANGE RATE.—The
25 term “real effective exchange rate” means a weight-

1 ed average of bilateral exchange rates, expressed in
2 price-adjusted terms.

3 (5) SECRETARY.—The term “Secretary” means
4 the Secretary of the Treasury.

5 **SEC. 702. ADVISORY COMMITTEE ON INTERNATIONAL EX-**
6 **CHANGE RATE POLICY.**

7 (a) ESTABLISHMENT.—

8 (1) IN GENERAL.—There is established an Ad-
9 visory Committee on International Exchange Rate
10 Policy (in this section referred to as the “Com-
11 mittee”).

12 (2) DUTIES.—The Committee shall be respon-
13 sible for advising the Secretary of the Treasury with
14 respect to the impact of international exchange rates
15 and financial policies on the economy of the United
16 States.

17 (b) MEMBERSHIP.—

18 (1) IN GENERAL.—The Committee shall be
19 composed of 9 members as follows, none of whom
20 may be employees of the Federal Government:

21 (A) Three members shall be appointed by
22 the President pro tempore of the Senate, upon
23 the recommendation of the chairmen and rank-
24 ing members of the Committee on Banking,

1 Housing, and Urban Affairs and the Committee
2 on Finance of the Senate.

3 (B) Three members shall be appointed by
4 the Speaker of the House of Representatives
5 upon the recommendation of the chairmen and
6 ranking members of the Committee on Finan-
7 cial Services and the Committee on Ways and
8 Means of the House of Representatives.

9 (C) Three members shall be appointed by
10 the President.

11 (2) QUALIFICATIONS.—Members shall be se-
12 lected under paragraph (1) on the basis of their ob-
13 jectivity and demonstrated expertise in finance, eco-
14 nomics, or currency exchange.

15 (3) TERMS.—

16 (A) IN GENERAL.—Members shall be ap-
17 pointed for a term of 2 years or until the Com-
18 mittee terminates.

19 (B) REAPPOINTMENT.—A member may be
20 reappointed to the Committee for additional
21 terms.

22 (4) VACANCIES.—Any vacancy in the Com-
23 mittee shall not affect its powers, but shall be filled
24 in the same manner as the original appointment.

25 (c) DURATION OF COMMITTEE.—

1 (1) IN GENERAL.—The Committee shall termi-
2 nate on the date that is 2 years after the date of the
3 enactment of this Act unless renewed by the Presi-
4 dent for a subsequent 2-year period.

5 (2) CONTINUED RENEWAL.—The President
6 may continue to renew the Committee for successive
7 2-year periods by taking appropriate action to renew
8 the Committee prior to the date on which the Com-
9 mittee would otherwise terminate.

10 (d) MEETINGS.—The Committee shall hold not less
11 than 2 meetings each calendar year.

12 (e) CHAIRPERSON.—

13 (1) IN GENERAL.—The Committee shall elect
14 from among its members a chairperson for a term
15 of 2 years or until the Committee terminates.

16 (2) REELECTION; SUBSEQUENT TERMS.—A
17 chairperson of the Committee may be reelected
18 chairperson but is ineligible to serve consecutive
19 terms as chairperson.

20 (f) STAFF.—The Secretary of the Treasury shall
21 make available to the Committee such staff, information,
22 personnel, administrative services, and assistance as the
23 Committee may reasonably require to carry out the activi-
24 ties of the Committee.

1 (g) APPLICATION OF THE FEDERAL ADVISORY COM-
2 MITTEE ACT.—

3 (1) IN GENERAL.—Except as provided in para-
4 graph (2), the provisions of the Federal Advisory
5 Committee Act (5 U.S.C. App.) shall apply to the
6 Committee.

7 (2) EXCEPTION.—Meetings of the Committee
8 shall be exempt from the requirements of sub-
9 sections (a) and (b) of section 10 and section 11 of
10 the Federal Advisory Committee Act (relating to
11 open meetings, public notice, public participation,
12 and public availability of documents), whenever and
13 to the extent it is determined by the President or the
14 Secretary of the Treasury that such meetings will be
15 concerned with matters the disclosure of which—

16 (A) would seriously compromise the devel-
17 opment by the Government of the United States
18 of monetary or financial policy; or

19 (B) is likely to—

20 (i) lead to significant financial specu-
21 lation in currencies, securities, or commod-
22 ities; or

23 (ii) significantly endanger the stability
24 of any financial institution.

1 (h) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Secretary of the
3 Treasury for each fiscal year in which the Committee is
4 in effect \$1,000,000 to carry out this section.

5 **TITLE VIII—ESTABLISHMENT OF**
6 **U.S. CUSTOMS AND BORDER**
7 **PROTECTION**

8 **SEC. 801. SHORT TITLE.**

9 This title may be cited as the “U.S. Customs and
10 Border Protection Authorization Act”.

11 **SEC. 802. ESTABLISHMENT OF U.S. CUSTOMS AND BORDER**
12 **PROTECTION.**

13 (a) IN GENERAL.—Section 411 of the Homeland Se-
14 curity Act of 2002 (6 U.S.C. 211) is amended to read
15 as follows:

16 **“SEC. 411. ESTABLISHMENT OF U.S. CUSTOMS AND BORDER**
17 **PROTECTION; COMMISSIONER, DEPUTY COM-**
18 **MISSIONER, AND OPERATIONAL OFFICES.**

19 “(a) IN GENERAL.—There is established in the De-
20 partment an agency to be known as U.S. Customs and
21 Border Protection.

22 “(b) COMMISSIONER OF U.S. CUSTOMS AND BORDER
23 PROTECTION.—There shall be at the head of U.S. Cus-
24 toms and Border Protection a Commissioner of U.S. Cus-
25 toms and Border Protection (in this section referred to

1 as the ‘Commissioner’), who shall be appointed by the
2 President, by and with the advice and consent of the Sen-
3 ate.

4 “(c) DUTIES.—The Commissioner shall—

5 “(1) ensure the interdiction of persons and
6 goods illegally entering or exiting the United States;

7 “(2) facilitate and expedite the flow of legiti-
8 mate travelers and trade;

9 “(3) detect, respond to, and interdict terrorists,
10 drug smugglers and traffickers, human smugglers
11 and traffickers, and other persons who may under-
12 mine the security of the United States, in cases in
13 which such persons are entering, or have recently
14 entered, the United States;

15 “(4) safeguard the borders of the United States
16 to protect against the entry of dangerous goods;

17 “(5) oversee the functions of the Office of
18 Trade established under section 802(h) of the Trade
19 Facilitation and Trade Enforcement Act of 2015;

20 “(6) enforce and administer all customs laws of
21 the United States, including the Tariff Act of 1930;

22 “(7) enforce and administer all immigration
23 laws, as such term is defined in paragraph (17) of
24 section 101(a) of the Immigration and Nationality
25 Act (8 U.S.C. 1101(a)), as necessary for the inspec-

1 tion, processing, and admission of persons who seek
2 to enter or depart the United States, and as nec-
3 essary to ensure the detection, interdiction, removal,
4 departure from the United States, short-term deten-
5 tion, and transfer of persons unlawfully entering, or
6 who have recently unlawfully entered, the United
7 States, in coordination with U.S. Immigration and
8 Customs Enforcement and United States Citizenship
9 and Immigration Services;

10 “(8) develop and implement screening and tar-
11 geting capabilities, including the screening, review-
12 ing, identifying, and prioritizing of passengers and
13 cargo across all international modes of transpor-
14 tation, both inbound and outbound;

15 “(9) in coordination with the Secretary, deploy
16 technology to collect the data necessary for the Sec-
17 retary to administer the biometric entry and exit
18 data system pursuant to section 7208 of the Intel-
19 ligence Reform and Terrorism Prevention Act of
20 2004 (8 U.S.C. 1365b);

21 “(10) enforce and administer the laws relating
22 to agricultural import and entry inspection referred
23 to in section 421;

24 “(11) in coordination with the Under Secretary
25 for Management of the Department, ensure U.S.

1 Customs and Border Protection complies with Fed-
2 eral law, the Federal Acquisition Regulation, and the
3 Department's acquisition management directives for
4 major acquisition programs of U.S. Customs and
5 Border Protection;

6 “(12) enforce and administer—

7 “(A) the Container Security Initiative pro-
8 gram under section 205 of the Security and Ac-
9 countability for Every Port Act of 2006 (6
10 U.S.C. 945; Public Law 109–347); and

11 “(B) the Customs-Trade Partnership
12 Against Terrorism program under sections 211
13 through 223 of such Act (6 U.S.C. 961-973);

14 “(13) conduct polygraph examinations in ac-
15 cordance with section 3(1) of the Anti-Border Cor-
16 ruption Act of 2010 (Public Law 111–376);

17 “(14) establish the standard operating proce-
18 dures described in subsection (k);

19 “(15) carry out the training required under
20 subsection (l); and

21 “(16) carry out other duties and powers pre-
22 scribed by law or delegated by the Secretary.

23 “(d) DEPUTY COMMISSIONER.—There shall be in
24 U.S. Customs and Border Protection a Deputy Commis-

1 sioner who shall assist the Commissioner in the manage-
2 ment of U.S. Customs and Border Protection.

3 “(e) U.S. BORDER PATROL.—

4 “(1) IN GENERAL.—There is established in
5 U.S. Customs and Border Protection the U.S. Bor-
6 der Patrol.

7 “(2) CHIEF.—There shall be at the head of the
8 U.S. Border Patrol a Chief, who shall report to the
9 Commissioner.

10 “(3) DUTIES.—The U.S. Border Patrol shall—

11 “(A) serve as the law enforcement office of
12 U.S. Customs and Border Protection with pri-
13 mary responsibility for interdicting persons at-
14 tempting to illegally enter or exit the United
15 States or goods being illegally imported into or
16 exported from the United States at a place
17 other than a designated port of entry;

18 “(B) deter and prevent illegal entry of ter-
19 rorists, terrorist weapons, persons, and contra-
20 band; and

21 “(C) carry out other duties and powers
22 prescribed by the Commissioner.

23 “(f) OFFICE OF AIR AND MARINE OPERATIONS.—

1 “(1) IN GENERAL.—There is established in
2 U.S. Customs and Border Protection an Office of
3 Air and Marine Operations.

4 “(2) ASSISTANT COMMISSIONER.—There shall
5 be at the head of the Office of Air and Marine Oper-
6 ations an Assistant Commissioner, who shall report
7 to the Commissioner.

8 “(3) DUTIES.—The Office of Air and Marine
9 Operations shall—

10 “(A) serve as the law enforcement office
11 within U.S. Customs and Border Protection
12 with primary responsibility to detect, interdict,
13 and prevent acts of terrorism and the unlawful
14 movement of people, illicit drugs, and other
15 contraband across the borders of the United
16 States in the air and maritime environment;

17 “(B) conduct joint aviation and marine op-
18 erations with U.S. Immigration and Customs
19 Enforcement;

20 “(C) conduct aviation and marine oper-
21 ations with international, Federal, State, and
22 local law enforcement agencies, as appropriate;

23 “(D) administer the Air and Marine Oper-
24 ations Center established under paragraph (4);
25 and

1 “(E) carry out other duties and powers
2 prescribed by the Commissioner.

3 “(4) AIR AND MARINE OPERATIONS CENTER.—

4 “(A) IN GENERAL.—There is established in
5 the Office of Air and Marine Operations an Air
6 and Marine Operations Center.

7 “(B) EXECUTIVE DIRECTOR.—There shall
8 be at the head of the Air and Marine Oper-
9 ations Center an Executive Director, who shall
10 report to the Assistant Commissioner of the Of-
11 fice of Air and Marine Operations.

12 “(C) DUTIES.—The Air and Marine Oper-
13 ations Center shall—

14 “(i) manage the air and maritime do-
15 main awareness of the Department;

16 “(ii) monitor and coordinate the air-
17 space for Unmanned Aerial Systems oper-
18 ations of the Office of Air and Marine Op-
19 erations in U.S. Customs and Border Pro-
20 tection;

21 “(iii) detect, identify, and coordinate a
22 response to threats to national security in
23 the air domain;

1 “(iv) provide aviation and marine sup-
2 port to other Federal, State, tribal, and
3 local agencies; and

4 “(v) carry out other duties and pow-
5 ers prescribed by the Assistant Commis-
6 sioner.

7 “(g) OFFICE OF FIELD OPERATIONS.—

8 “(1) IN GENERAL.—There is established in
9 U.S. Customs and Border Protection an Office of
10 Field Operations.

11 “(2) ASSISTANT COMMISSIONER.—There shall
12 be at the head of the Office of Field Operations an
13 Assistant Commissioner, who shall report to the
14 Commissioner.

15 “(3) DUTIES.—The Office of Field Operations
16 shall coordinate the enforcement activities of U.S.
17 Customs and Border Protection at United States
18 air, land, and sea ports of entry to—

19 “(A) deter and prevent terrorists and ter-
20 rorist weapons from entering the United States
21 at such ports of entry;

22 “(B) conduct inspections at such ports of
23 entry to safeguard the United States from ter-
24 rorism and illegal entry of persons;

1 “(C) prevent illicit drugs, agricultural
2 pests, and contraband from entering the United
3 States;

4 “(D) in coordination with the Commis-
5 sioner, facilitate and expedite the flow of legiti-
6 mate travelers and trade;

7 “(E) administer the National Targeting
8 Center established under paragraph (4); and

9 “(F) carry out other duties and powers
10 prescribed by the Commissioner.

11 “(4) NATIONAL TARGETING CENTER.—

12 “(A) IN GENERAL.—There is established in
13 the Office of Field Operations a National Tar-
14 geting Center.

15 “(B) EXECUTIVE DIRECTOR.—There shall
16 be at the head of the National Targeting Center
17 an Executive Director, who shall report to the
18 Assistant Commissioner of the Office of Field
19 Operations.

20 “(C) DUTIES.—The National Targeting
21 Center shall—

22 “(i) serve as the primary forum for
23 targeting operations within U.S. Customs
24 and Border Protection to collect and ana-

1 lyze traveler and cargo information in ad-
2 vance of arrival in the United States;

3 “(ii) identify, review, and target trav-
4 elers and cargo for examination;

5 “(iii) coordinate the examination of
6 entry and exit of travelers and cargo;

7 “(iv) develop and conduct commercial
8 risk assessment targeting with respect to
9 cargo destined for the United States;

10 “(v) issue Trade Alerts pursuant to
11 section 111 of the Trade Facilitation and
12 Trade Enforcement Act of 2015; and

13 “(vi) carry out other duties and pow-
14 ers prescribed by the Assistant Commis-
15 sioner.

16 “(5) ANNUAL REPORT ON STAFFING.—Not
17 later than 30 days after the date of the enactment
18 of the Trade Facilitation and Trade Enforcement
19 Act of 2015 and annually thereafter, the Assistant
20 Commissioner shall submit to the appropriate con-
21 gressional committees a report on the staffing model
22 for the Office of Field Operations, including infor-
23 mation on how many supervisors, front-line U.S.
24 Customs and Border Protection officers, and sup-

1 port personnel are assigned to each Field Office and
2 port of entry.

3 “(h) OFFICE OF INTELLIGENCE.—

4 “(1) IN GENERAL.—There is established in
5 U.S. Customs and Border Protection an Office of
6 Intelligence.

7 “(2) ASSISTANT COMMISSIONER.—There shall
8 be at the head of the Office of Intelligence an Assist-
9 ant Commissioner, who shall report to the Commis-
10 sioner.

11 “(3) DUTIES.—The Office of Intelligence
12 shall—

13 “(A) develop, provide, coordinate, and im-
14 plement intelligence capabilities into a cohesive
15 intelligence enterprise to support the execution
16 of the duties and responsibilities of U.S. Cus-
17 toms and Border Protection;

18 “(B) collect and analyze advance traveler
19 and cargo information;

20 “(C) establish, in coordination with the
21 Chief Intelligence Officer of the Department, as
22 appropriate, intelligence-sharing relationships
23 with Federal, State, local, and tribal agencies
24 and intelligence agencies;

1 “(D) conduct risk-based covert testing of
2 U.S. Customs and Border Protection oper-
3 ations, including for nuclear and radiological
4 risks; and

5 “(E) carry out other duties and powers
6 prescribed by the Commissioner.

7 “(i) OFFICE OF INTERNATIONAL AFFAIRS.—

8 “(1) IN GENERAL.—There is established in
9 U.S. Customs and Border Protection an Office of
10 International Affairs.

11 “(2) ASSISTANT COMMISSIONER.—There shall
12 be at the head of the Office of International Affairs
13 an Assistant Commissioner, who shall report to the
14 Commissioner.

15 “(3) DUTIES.—The Office of International Af-
16 fairs, in collaboration with the Office of Policy of the
17 Department, shall—

18 “(A) coordinate and support U.S. Customs
19 and Border Protection’s foreign initiatives, poli-
20 cies, programs, and activities;

21 “(B) coordinate and support U.S. Customs
22 and Border Protection’s personnel stationed
23 abroad;

24 “(C) maintain partnerships and informa-
25 tion sharing agreements and arrangements with

1 foreign governments, international organiza-
2 tions, and United States agencies in support of
3 U.S. Customs and Border Protection duties and
4 responsibilities;

5 “(D) provide necessary capacity building,
6 training, and assistance to foreign border con-
7 trol agencies to strengthen global supply chain
8 and travel security, as appropriate;

9 “(E) coordinate mission support services to
10 sustain U.S. Customs and Border Protection’s
11 global activities;

12 “(F) coordinate U.S. Customs and Border
13 Protection’s engagement in international nego-
14 tiations; and

15 “(G) carry out other duties and powers
16 prescribed by the Commissioner.

17 “(j) OFFICE OF INTERNAL AFFAIRS.—

18 “(1) IN GENERAL.—There is established in
19 U.S. Customs and Border Protection an Office of
20 Internal Affairs.

21 “(2) ASSISTANT COMMISSIONER.—There shall
22 be at the head of the Office of Internal Affairs an
23 Assistant Commissioner, who shall report to the
24 Commissioner.

1 “(3) DUTIES.—The Office of Internal Affairs
2 shall—

3 “(A) investigate criminal and administra-
4 tive matters and misconduct by officers, agents,
5 and other employees of U.S. Customs and Bor-
6 der Protection;

7 “(B) perform investigations of applicants
8 for employment with U.S. Customs and Border
9 Protection and periodic reinvestigations (in ac-
10 cordance with section 3001 of the Intelligence
11 Reform and Terrorism Prevention Act of 2004
12 (50 U.S.C. 3341; Public Law 108–458)) of offi-
13 cers, agents, and other employees of United
14 States Custom and Border Protection, including
15 investigations to determine suitability for em-
16 ployment and eligibility for access to classified
17 information;

18 “(C) manage integrity of U.S. Customs
19 and Border Protection’s counter-intelligence op-
20 erations, including conduct of counter-intel-
21 ligence investigations;

22 “(D) conduct research and analysis regard-
23 ing misconduct of officers, agents, and other
24 employees of U.S. Customs and Border Protec-
25 tion; and

1 “(E) carry out other duties and powers
2 prescribed by the Commissioner.

3 “(k) STANDARD OPERATING PROCEDURES.—

4 “(1) IN GENERAL.—The Commissioner shall es-
5 tablish—

6 “(A) standard operating procedures for
7 searching, reviewing, retaining, and sharing in-
8 formation contained in communication, elec-
9 tronic, or digital devices encountered by U.S.
10 Customs and Border Protection personnel at
11 United States ports of entry;

12 “(B) standard use of force procedures that
13 officers and agents of U.S. Customs and Border
14 Protection may employ in the execution of their
15 duties, including the use of deadly force;

16 “(C) a uniform, standardized, and pub-
17 lically-available procedure for processing and in-
18 vestigating complaints against officers, agents,
19 and employees of U.S. Customs and Border
20 Protection for violations of professional con-
21 duct, including the timely disposition of com-
22 plaints and a written notification to the com-
23 plainant of the status or outcome, as appro-
24 priate, of the related investigation, in accord-
25 ance with section 552a of title 5, United States

1 Code (commonly referred to as the ‘Privacy
2 Act’ or the ‘Privacy Act of 1974’);

3 “(D) an internal, uniform reporting mech-
4 anism regarding incidents involving the use of
5 deadly force by an officer or agent of U.S. Cus-
6 toms and Border Protection, including an eval-
7 uation of the degree to which the procedures re-
8 quired under subparagraph (B) were followed;
9 and

10 “(E) standard operating procedures, acting
11 through the Assistant Commissioner for Air
12 and Marine Operations and in coordination
13 with the Office for Civil Rights and Civil Lib-
14 erties and the Office of Privacy of the Depart-
15 ment, to provide command, control, communica-
16 tion, surveillance, and reconnaissance assistance
17 through the use of unmanned aerial systems,
18 including the establishment of—

19 “(i) a process for other Federal,
20 State, and local law enforcement agencies
21 to submit mission requests;

22 “(ii) a formal procedure to determine
23 whether to approve or deny such a mission
24 request;

1 “(iii) a formal procedure to determine
2 how such mission requests are prioritized
3 and coordinated; and

4 “(iv) a process regarding the protec-
5 tion and privacy of data and images col-
6 lected by U.S. Customs and Border Pro-
7 tection through the use of unmanned aerial
8 systems.

9 “(2) REQUIREMENTS REGARDING CERTAIN NO-
10 TIFICATIONS.—The standard operating procedures
11 established pursuant to subparagraph (A) of para-
12 graph (1) shall require—

13 “(A) in the case of a search of information
14 conducted on an electronic device by U.S. Cus-
15 toms and Border Protection personnel, the
16 Commissioner to notify the individual subject to
17 such search of the purpose and authority for
18 such search, and how such individual may ob-
19 tain information on reporting concerns about
20 such search; and

21 “(B) in the case of information collected
22 by U.S. Customs and Border Protection
23 through a search of an electronic device, if such
24 information is transmitted to another Federal
25 agency for subject matter assistance, trans-

1 lation, or decryption, the Commissioner to no-
2 tify the individual subject to such search of
3 such transmission.

4 “(3) EXCEPTIONS.—

5 “(A) IN GENERAL.—The Commissioner
6 may withhold the notifications required under
7 paragraphs (1)(C) and (2) if the Commissioner
8 determines that such notifications would impair
9 national security, law enforcement, or other
10 operational interests.

11 “(B) TERRORIST WATCH LISTS.—

12 “(i) SEARCHES.—If the individual
13 subject to search of an electronic device
14 pursuant to subparagraph (A) of para-
15 graph (1) is included on a Government-op-
16 erated or Government-maintained terrorist
17 watch list, the notifications required under
18 paragraph (2) shall not apply.

19 “(ii) COMPLAINTS.—If the complain-
20 ant using the process established under
21 subparagraph (C) of paragraph (1) is in-
22 cluded on a Government-operated or Gov-
23 ernment-maintained terrorist watch list,
24 the notification required under such sub-
25 paragraph shall not apply.

1 “(4) UPDATE AND REVIEW.—The Commis-
2 sioner shall review and update every three years the
3 standard operating procedures required under this
4 subsection.

5 “(5) AUDITS.—The Inspector General of the
6 Department of Homeland Security shall develop and
7 annually administer an auditing mechanism to re-
8 view whether searches of electronic devices at or be-
9 tween United States ports of entry are being con-
10 ducted in conformity with the standard operating
11 procedures required under subparagraph (A) of
12 paragraph (1). Such audits shall be submitted to the
13 appropriate congressional committees and shall in-
14 clude the following:

15 “(A) A description of the activities of offi-
16 cers and agents of U.S. Customs and Border
17 Protection with respect to such searches.

18 “(B) The number of such searches.

19 “(C) The number of instances in which in-
20 formation contained in such devices that were
21 subjected to such searches was retained, copied,
22 shared, or entered in an electronic database.

23 “(D) The number of such devices detained
24 as the result of such searches.

1 “(E) The number of instances in which in-
2 formation collected from such device was sub-
3 jected to such searches was transmitted to an-
4 other Federal agency, including whether such
5 transmission resulted in a prosecution or con-
6 viction.

7 “(6) REQUIREMENTS REGARDING OTHER NOTI-
8 FICATIONS.—The standard operating procedures es-
9 tablished pursuant to subparagraph (B) of para-
10 graph (1) shall require—

11 “(A) in the case of an incident of the use
12 of deadly force by U.S. Customs and Border
13 Protection personnel, the Commissioner to no-
14 tify the appropriate congressional committees;
15 and

16 “(B) the Commissioner to provide to such
17 committees a copy of the evaluation pursuant to
18 subparagraph (D) of such paragraph not later
19 than 30 days after completion of such evalua-
20 tion.

21 “(7) REPORT ON UNMANNED AERIAL SYS-
22 TEMS.—The Commissioner shall submit to the ap-
23 propriate congressional committees an annual report
24 that reviews whether the use of unmanned aerial
25 systems are being conducted in conformity with the

1 standard operating procedures required under sub-
2 paragraph (E) of paragraph (1). Such reports—

3 “(A) shall be submitted with the Presi-
4 dent’s annual budget;

5 “(B) may be submitted in classified form
6 if the Commissioner determines that such is ap-
7 propriate, and

8 “(C) shall include—

9 “(i) a detailed description of how,
10 where, and for how long data and images
11 collected through the use of unmanned aer-
12 ial systems by U.S. Customs and Border
13 Protection is collected and stored; and

14 “(ii) a list of Federal, State, and local
15 law enforcement agencies that submitted
16 mission requests in the previous year and
17 the disposition of such requests.

18 “(l) TRAINING.—The Commissioner shall require all
19 officers and agents of U.S. Customs and Border Protec-
20 tion to participate in a specified amount of continuing
21 education (to be determined by the Commissioner) to
22 maintain an understanding of Federal legal rulings, court
23 decisions, and departmental policies, procedures, and
24 guidelines.

25 “(m) SHORT TERM DETENTION STANDARDS.—

1 “(1) ACCESS TO FOOD AND WATER.—The Com-
2 missioner shall make every effort to ensure that ade-
3 quate access to food and water is provided to an in-
4 dividual apprehended and detained at or between a
5 United States port of entry as soon as practicable
6 following the time of such apprehension or during
7 subsequent short term detention.

8 “(2) ACCESS TO INFORMATION ON DETAINEE
9 RIGHTS AT BORDER PATROL PROCESSING CEN-
10 TERS.—

11 “(A) IN GENERAL.—The Commissioner
12 shall ensure that an individual apprehended by
13 a U.S. Border Patrol agent or an Office of
14 Field Operations officer is provided with infor-
15 mation concerning such individual’s rights, in-
16 cluding the right to contact a representative of
17 such individual’s government for purposes of
18 United States treaty obligations.

19 “(B) FORM.—The information referred to
20 in subparagraph (A) may be provided either
21 verbally or in writing, and shall be posted in the
22 detention holding cell in which such individual
23 is being held. The information shall be provided
24 in a language understandable to such indi-
25 vidual.

1 “(3) SHORT TERM DETENTION DEFINED.—In
2 this subsection, the term ‘short term detention’
3 means detention in a U.S. Customs and Border Pro-
4 tection processing center for 72 hours or less, before
5 repatriation to a country of nationality or last habit-
6 ual residence.

7 “(4) DAYTIME REPATRIATION.—When prac-
8 ticable, repatriations shall be limited to daylight
9 hours and avoid locations that are determined to
10 have high indices of crime and violence.

11 “(5) REPORT ON PROCUREMENT PROCESS AND
12 STANDARDS.—Not later than 180 days after the
13 date of the enactment of this section, the Comp-
14 troller General of the United States shall submit to
15 the appropriate congressional committees a report
16 on the procurement process and standards of enti-
17 ties with which U.S. Customs and Border Protection
18 has contracts for the transportation and detention of
19 individuals apprehended by agents or officers of U.S.
20 Customs and Border Protection. Such report should
21 also consider the operational efficiency of con-
22 tracting the transportation and detention of such in-
23 dividuals.

24 “(6) REPORT ON INSPECTIONS OF SHORT-TERM
25 CUSTODY FACILITIES.—The Commissioner shall—

1 “(A) annually inspect all facilities utilized
2 for short term detention; and

3 “(B) make publically available information
4 collected pursuant to such inspections, including
5 information regarding the requirements under
6 paragraphs (1) and (2) and, where appropriate,
7 issue recommendations to improve the condi-
8 tions of such facilities.

9 “(n) WAIT TIMES TRANSPARENCY.—

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

11 “(A) publish live wait times at the 20
12 United States airports that support the highest
13 volume of international travel (as determined by
14 available Federal flight data);

15 “(B) make information about such wait
16 times available to the public in real time
17 through the U.S. Customs and Border Protec-
18 tion Web site;

19 “(C) submit to the appropriate congres-
20 sional committees quarterly reports that include
21 compilations of all such wait times and a rank-
22 ing of such United States airports by wait
23 times; and

24 “(D) provide adequate staffing at the U.S.
25 Customs and Border Protection information

1 center to ensure timely access for travelers at-
2 tempting to submit comments or speak with a
3 representative about their entry experiences.

4 “(2) CALCULATION.—The wait times referred
5 to in paragraph (1)(A) shall be determined by calcu-
6 lating the time elapsed between an individual’s entry
7 into the U.S. Customs and Border Protection in-
8 spection area and such individual’s clearance by a
9 U.S. Customs and Border Protection officer.

10 “(o) OTHER AUTHORITIES.—

11 “(1) IN GENERAL.—The Secretary may estab-
12 lish such other offices or Assistant Commissioners
13 (or other similar officers or officials) as the Sec-
14 retary determines necessary to carry out the mis-
15 sions, duties, functions, and authorities of U.S. Cus-
16 toms and Border Protection.

17 “(2) NOTIFICATION.—If the Secretary exercises
18 the authority provided pursuant to paragraph (1),
19 the Secretary shall notify the appropriate congres-
20 sional committees not later than 30 days before ex-
21 ercising such authority.

22 “(p) OTHER FEDERAL AGENCIES.—Nothing in this
23 section may be construed as affecting in any manner the
24 authority, existing on the date of the enactment of the
25 Trade Facilitation and Trade Enforcement Act of 2015,

1 of any other Federal agency, including the Transportation
2 Security Administration, with respect to the duties of U.S.
3 Customs and Border Protection described in subsection
4 (c).”.

5 (b) SPECIAL RULES.—

6 (1) TREATMENT.—Section 411 of the Home-
7 land Security Act of 2002, as amended by subsection
8 (a) of this section, shall be treated as if included in
9 such Act as of the date of the enactment of such
10 Act, and, in addition to the functions, missions, du-
11 ties, and authorities specified in such amended sec-
12 tion 411, U.S. Customs and Border Protection shall
13 continue to perform and carry out the functions,
14 missions, duties, and authorities under section 411
15 of such Act as in existence on the day before such
16 date of enactment, and section 415 of such Act.

17 (2) RULES OF CONSTRUCTION.—

18 (A) RULES AND REGULATIONS.—Notwith-
19 standing paragraph (1), nothing in this title or
20 any amendment made by this title may be con-
21 strued as affecting in any manner any rule or
22 regulation issued or promulgated pursuant to
23 any provision of law, including section 411 of
24 the Homeland Security Act of 2002 as in exist-
25 ence on the day before the date of the enact-

1 ment of this Act, and any such rule or regula-
2 tion shall continue to have full force and effect
3 on and after such date.

4 (B) OTHER ACTIONS.—Notwithstanding
5 paragraph (1), nothing in this Act may be con-
6 strued as affecting in any manner any action,
7 determination, policy, or decision pursuant to
8 section 411 of the Homeland Security Act of
9 2002 as in existence on the day before the date
10 of the enactment of this Act, and any such ac-
11 tion, determination, policy, or decision shall
12 continue to have full force and effect on and
13 after such date.

14 (c) CONTINUATION IN OFFICE.—

15 (1) COMMISSIONER.—The individual serving as
16 the Commissioner of Customs on the day before the
17 date of the enactment of this Act may serve as the
18 Commissioner of U.S. Customs and Border Protec-
19 tion on and after such date of enactment until a
20 Commissioner of U.S. Customs and Border Protec-
21 tion is appointed under section 411 of the Homeland
22 Security Act of 2002, as amended by subsection (a)
23 of this section.

24 (2) OTHER POSITIONS.—The individuals serv-
25 ing as Assistant Commissioners and other officers

1 and officials under section 411 of the Homeland Se-
2 curity Act of 2002 on the day before the date of the
3 enactment of this Act may serve as the appropriate
4 Assistant Commissioners and other officers and offi-
5 cials under such section 411 as amended by sub-
6 section (a) of this section unless the Commissioner
7 of U.S. Customs and Border Protection determines
8 that another individual should hold such position or
9 positions.

10 (d) REFERENCE.—

11 (1) TITLE 5.—Section 5314 of title 5, United
12 States Code, is amended by striking “Commissioner
13 of Customs, Department of Homeland Security” and
14 inserting “Commissioner of U.S. Customs and Bor-
15 der Protection, Department of Homeland Security”.

16 (2) OTHER REFERENCES.—On and after the
17 date of the enactment of this Act, any reference in
18 law or regulations to the “Commissioner of Cus-
19 toms” or the “Commissioner of the Customs Serv-
20 ice” shall be deemed to be a reference to the Com-
21 missioner of U.S. Customs and Border Protection.

22 (e) CLERICAL AMENDMENT.—The table of contents
23 in section 1(b) of the Homeland Security Act of 2002 (6
24 U.S.C. 101 et seq.) is amended by striking the item relat-
25 ing to section 411 and inserting the following new item:

“Sec. 411. Establishment of U.S. Customs and Border Protection; Commissioner, Deputy Commissioner, and operational offices.”.

1 (f) REPEALS.—Sections 416 and 418 of the Home-
2 land Security Act of 2002 (6 U.S.C. 216 and 218), and
3 the items relating to such sections in the table of contents
4 in section 1(b) of such Act, are repealed.

5 (g) CLERICAL AND CONFORMING AMENDMENTS.—

6 (1) IN GENERAL.—The Homeland Security Act
7 of 2002 (6 U.S.C. 101 et seq.) is amended—

8 (A) in title I—

9 (i) in section 102(f)(10) (6 U.S.C.
10 112(f)(10)), by striking “the Directorate of
11 Border and Transportation Security” and
12 inserting “the Commissioner of U.S. Cus-
13 toms and Border Protection”; and

14 (ii) in section 103(a)(1) (6 U.S.C.
15 113(a)(1))—

16 (I) in subparagraph (C), by strik-
17 ing “An Under Secretary for Border
18 and Transportation Security.” and in-
19 serting “A Commissioner of U.S. Cus-
20 toms and Border Protection.”; and

21 (II) in subparagraph (G), by
22 striking “A Director of the Office of
23 Counternarcotics Enforcement.” and
24 inserting “A Director of U.S. Immi-

1 gration and Customs Enforcement.”;

2 and

3 (B) in title IV—

4 (i) by striking the title heading and
5 inserting “**BORDER, MARITIME,
6 AND TRANSPORTATION SECUR-
7 RITY**”;

8 (ii) in subtitle A—

9 (I) by striking the subtitle head-
10 ing and inserting “**Border, Mari-
11 time, and Transportation Se-
12 curity Responsibilities and
13 Functions**”; and

14 (II) in section 402 (6 U.S.C.
15 202)—

16 (aa) in the section heading,
17 by striking “**RESPONSIBIL-
18 ITIES**” and inserting “**BORDER,
19 MARITIME, AND TRANSPOR-
20 TATION RESPONSIBILITIES**”;
21 and

22 (bb) by striking “, acting
23 through the Under Secretary for
24 Border and Transportation Secu-
25 rity,”;

1 (iii) in subtitle B—

2 (I) by striking the subtitle head-
3 ing and inserting “**U.S. Customs**
4 **and Border Protection**”;

5 (II) in section 412(b) (6 U.S.C.
6 212), by striking “the United States
7 Customs Service” each place it ap-
8 pears and inserting “U.S. Customs
9 and Border Protection”;

10 (III) in section 413 (6 U.S.C.
11 213), by striking “available to the
12 United States Customs Service or”;

13 (IV) in section 414 (6 U.S.C.
14 214), by striking “the United States
15 Customs Service” and inserting “U.S.
16 Customs and Border Protection”; and

17 (V) in section 415 (6 U.S.C.
18 215)—

19 (aa) in paragraph (7), by in-
20 serting before the colon the fol-
21 lowing: “, and of U.S. Customs
22 and Border Protection on the day
23 before the effective date of the
24 U.S. Customs and Border Pro-
25 tection Authorization Act”; and

1 (bb) in paragraph (8), by in-
2 serting before the colon the fol-
3 lowing: “, and of U.S. Customs
4 and Border Protection on the day
5 before the effective date of the
6 U.S. Customs and Border Pro-
7 tection Authorization Act”;

8 (iv) in subtitle C—
9 (I) by striking section 424 (6
10 U.S.C. 234) and inserting the fol-
11 lowing new section:

12 **“SEC. 424. PRESERVATION OF TRANSPORTATION SECURITY**
13 **ADMINISTRATION AS A DISTINCT ENTITY.**

14 “Notwithstanding any other provision of this Act, the
15 Transportation Security Administration shall be main-
16 tained as a distinct entity within the Department.”; and

17 (II) in section 430 (6 U.S.C.
18 238)—

19 (aa) by amending subsection
20 (a) to read as follows:

21 “(a) **ESTABLISHMENT.**—There is established in the
22 Department an Office for Domestic Preparedness.”;

23 (bb) in subsection (b), by
24 striking the second sentence; and

1 (cc) in subsection (c)(7), by
2 striking “Directorate” and in-
3 serting “Department”; and

4 (v) in subtitle D—

5 (I) in section 441 (6 U.S.C.
6 251)—

7 (aa) by striking the section
8 heading and inserting “**TRANS-**
9 **FER OF FUNCTIONS**”; and

10 (bb) by striking “Under Sec-
11 retary for Border and Transpor-
12 tation Security” and inserting
13 “Secretary”;

14 (II) in section 443 (6 U.S.C.
15 253)—

16 (aa) in the matter preceding
17 paragraph (1), by striking
18 “Under Secretary for Border and
19 Transportation Security” and in-
20 serting “Secretary”; and

21 (bb) by striking “the Bureau
22 of Border Security” and insert-
23 ing “U.S. Immigration and Cus-
24 toms Enforcement” each place it
25 appears; and

1 (III) by amending section 444 (6
2 U.S.C. 254) to read as follows:

3 **“SEC. 444. EMPLOYEE DISCIPLINE.**

4 “Notwithstanding any other provision of law, the Sec-
5 retary may impose disciplinary action on any employee of
6 U.S. Immigration and Customs Enforcement and U.S.
7 Customs and Border Protection who willfully deceives
8 Congress or agency leadership on any matter.”.

9 (2) CONFORMING AMENDMENTS.—Section 401
10 of the Homeland Security Act of 2002 (6 U.S.C.
11 201) is repealed.

12 (3) CLERICAL AMENDMENTS.—The table of
13 contents in section 1(b) of the Homeland Security
14 Act of 2002 is amended—

15 (A) by striking the item relating to title IV
16 and inserting the following:

“TITLE IV—BORDER, MARITIME, AND TRANSPORTATION
SECURITY”;

17 (B) by striking the item relating to subtitle
18 A of title IV and inserting the following:

“Subtitle A—Border, Maritime, and Transportation Security Responsibilities
and Functions”;

19 (C) by striking the item relating to section
20 401;

21 (D) by striking the item relating to subtitle
22 B of title IV and inserting the following:

“Subtitle B—U.S. Customs and Border Protection”;

1 (E) by striking the item relating to section
2 441 and inserting the following:

“Sec. 441. Transfer of functions.”;

3 and

4 (F) by striking the item relating to section
5 442 and inserting the following:

“Sec. 442. U.S. Immigration and Customs Enforcement.”.

6 (h) OFFICE OF TRADE.—

7 (1) TRADE OFFICES AND FUNCTIONS.—The Act
8 of March 3, 1927 (44 Stat. 1381, chapter 348; 19
9 U.S.C. 2071 et seq.), is amended by adding at the
10 end the following:

11 **“SEC. 4. OFFICE OF TRADE.**

12 “(a) IN GENERAL.—There is established in U.S. Cus-
13 toms and Border Protection an Office of Trade.

14 “(b) ASSISTANT COMMISSIONER.—

15 “(1) IN GENERAL.—There shall be at the head
16 of the Office of Trade an Assistant Commissioner,
17 who shall report to the Commissioner of U.S. Cus-
18 toms and Border Protection.

19 “(2) QUALIFICATIONS.—The Assistant Com-
20 missioner shall have a minimum of 10 years of pro-
21 fessional experience with the customs and trade laws
22 of the United States.

23 “(3) SENIOR EXECUTIVE SERVICE POSITION.—

24 The position of Assistant Commissioner for Trade

1 shall be a Senior Executive Service position (as de-
2 fined in section 3132(a) of title 5, United States
3 Code).

4 “(c) DUTIES.—The Office of Trade shall—

5 “(1) direct the development and implementa-
6 tion, pursuant to the customs and trade laws of the
7 United States, of policies and regulations adminis-
8 tered by U.S. Customs and Border Protection;

9 “(2) advise the Commissioner with respect to
10 the impact on trade facilitation and trade enforce-
11 ment of any policy or regulation otherwise proposed
12 or administered by U.S. Customs and Border Pro-
13 tection;

14 “(3) coordinate and cooperate with the Assist-
15 ant Commissioner for the Office of Field Operations
16 with respect to the trade facilitation and trade en-
17 forcement activities of U.S. Customs and Border
18 Protection carried out at the land borders and ports
19 of entry of the United States;

20 “(4) direct the development and implementation
21 of matters relating to the priority trade issues iden-
22 tified by the Commissioner of U.S. Customs and
23 Border Protection in the joint strategic plan on
24 trade facilitation and trade enforcement required

1 under section 123A of the Customs and Trade Act
2 of 1990;

3 “(5) otherwise advise the Commissioner of U.S.
4 Customs and Border Protection with respect to the
5 development and implementation of the joint stra-
6 tegic plan;

7 “(6) direct the trade enforcement activities of
8 U.S. Customs and Border Protection;

9 “(7) oversee the trade modernization activities
10 of U.S. Customs and Border Protection, including
11 the development and implementation of the Auto-
12 mated Commercial Environment computer system
13 authorized under section 13031(f)(5) of the Consoli-
14 dated Omnibus Budget and Reconciliation Act of
15 1985 (19 U.S.C. 58e(f)(5)) and support for the es-
16 tablishment of the International Trade Data System
17 under the oversight of the Department of Treasury
18 pursuant to section 411(d) of the Tariff Act of 1930
19 (19 U.S.C. 1411(d));

20 “(8) direct the administration of customs rev-
21 enue functions as otherwise provided by law or dele-
22 gated by the Commissioner of U.S. Customs and
23 Border Protection; and

24 “(9) prepare an annual report to be submitted
25 to the Committee on Finance of the Senate and the

1 Committee on Ways and Means of the House of
2 Representatives not later than March 1 of each cal-
3 endar year that includes—

4 “(A) a summary of the changes to customs
5 policies and regulations adopted by U.S. Cus-
6 toms and Border Protection during the pre-
7 ceding calendar year; and

8 “(B) a description of the public vetting
9 and interagency consultation that occurred with
10 respect to each such change.

11 “(d) TRANSFER OF ASSETS, FUNCTIONS, AND PER-
12 SONNEL; ELIMINATION OF OFFICES.—

13 “(1) OFFICE OF INTERNATIONAL TRADE.—

14 “(A) TRANSFER.—Not later than 30 days
15 after the date of the enactment of the Trade
16 Facilitation and Trade Enforcement Act of
17 2015, the Commissioner shall transfer the as-
18 sets, functions, personnel, and liabilities of the
19 Office of International Trade to the Office of
20 Trade established under subsection (b).

21 “(B) ELIMINATION.—Not later than 30
22 days after the date of enactment of the Trade
23 Facilitation and Trade Enforcement Act of
24 2015, the Office of International Trade shall be
25 abolished.

1 “(C) LIMITATION ON FUNDS.—No funds
2 appropriated to U.S. Customs and Border Pro-
3 tection or the Department of Homeland Secu-
4 rity may be used to transfer the assets, func-
5 tions, personnel, and liabilities of the Office of
6 International Trade to an office other than the
7 Office of Trade established under subsection
8 (a).

9 “(D) OFFICE OF INTERNATIONAL TRADE
10 DEFINED.—In this paragraph, the term ‘Office
11 of International Trade’ means the Office of
12 International Trade established by section 2 of
13 the Act of March 3, 1927 (44. Stat. 1381,
14 chapter 348; 19 U.S.C. 2072), as added by sec-
15 tion 402 of the Security and Accountability for
16 Every Port Act of 2006 (Public Law 109–347;
17 120 Stat. 1924), and as in effect on the day be-
18 fore the date of the enactment of the Trade Fa-
19 cilitation and Trade Enforcement Act of 2015.

20 “(2) OTHER TRANSFERS.—

21 “(A) IN GENERAL.—The Commissioner is
22 authorized to transfer any other assets, func-
23 tions, or personnel within U.S. Customs and
24 Border Protection to the Office of Trade estab-
25 lished under subsection (d).

1 “(B) CONGRESSIONAL NOTIFICATION.—

2 Not less than 90 days prior to the transfer of
3 assets, functions, or personnel under subpara-
4 graph (A)(i), the Commissioner shall notify the
5 Committee on Finance of the Senate, the Com-
6 mittee on Homeland Security and Government
7 Affairs of the Senate, the Committee on Ways
8 and Means of the House of Representatives,
9 and the Committee on Homeland Security of
10 the House of Representatives of the specific as-
11 sets, functions, or personnel to be transferred,
12 and the reason for the transfer.

13 “(e) DEFINITIONS.—In this section, the terms ‘cus-
14 toms and trade laws of the United States’, ‘trade enforce-
15 ment’, and ‘trade facilitation’ have the meanings given
16 such terms in section 2 of the Trade Facilitation and
17 Trade Enforcement Act of 2015.”.

18 (2) CONTINUATION IN OFFICE.—The individual
19 serving as the Assistant Commissioner of the Office
20 of International Trade on the day before the date of
21 the enactment of this Act may serve as the Assistant
22 Commissioner for Trade on or after such date of en-
23 actment, at the discretion of the Commissioner.

24 (3) CONFORMING AMENDMENTS.—Section 2 of
25 the Act of March 3, 1927 (44. Stat. 1381, chapter

1 348; 19 U.S.C. 2072), as added by section 402 of
2 the Security and Accountability for Every Port Act
3 of 2006 (Public Law 109–347; 120 Stat. 1924), is
4 amended—

5 (A) by striking subsection (d); and

6 (B) by redesignating subsections (e) and
7 (f) as subsections (d) and (e), respectively.

8 (i) REPORTS AND ASSESSMENTS.—

9 (1) REPORT ON BUSINESS TRANSFORMATION
10 INITIATIVE.—Not later than 90 days after the date
11 of the enactment of this Act, the Commissioner of
12 U.S. Customs and Border Protection shall submit to
13 the Committee on Homeland Security and the Com-
14 mittee on Ways and Means of the House of Rep-
15 resentatives and the Committee on Homeland Secu-
16 rity and Governmental Affairs and the Committee
17 on Finance of the Senate a report on U.S. Customs
18 and Border Protection’s Business Transformation
19 Initiative, including locations where the Initiative is
20 deployed, the types of equipment utilized, a descrip-
21 tion of protocols and procedures, information on
22 wait times at such locations since deployment, and
23 information regarding the schedule for deployment
24 at new locations.

1 (2) PORT OF ENTRY INFRASTRUCTURE NEEDS
2 ASSESSMENTS.—Not later 180 days after the date of
3 the enactment of this Act, the Commissioner of U.S.
4 Customs and Border Protection shall assess the
5 physical infrastructure and technology needs at the
6 20 busiest land ports of entry (as measured by U.S.
7 Customs and Border Protection) with a particular
8 attention to identify ways to—

9 (A) improve travel and trade facilitation;

10 (B) reduce wait times;

11 (C) improve physical infrastructure and
12 conditions for individuals accessing pedestrian
13 ports of entry;

14 (D) enter into long-term leases with non-
15 governmental and private sector entities;

16 (E) enter into lease-purchase agreements
17 with nongovernmental and private sector enti-
18 ties; and

19 (F) achieve cost savings through leases de-
20 scribed in subparagraphs (D) and (E).

21 (3) PERSONAL SEARCHES.—Not later than 90
22 days after the date of the enactment of this Act, the
23 Commissioner of U.S. Customs and Border Protec-
24 tion shall submit to the Committee on Homeland Se-
25 curity of the House of Representatives and the Com-

1 mittee on Homeland Security and Governmental Af-
2 fairs of the Senate a report on supervisor-approved
3 personal searches conducted in the previous year by
4 U.S. Customs and Border Protection personnel.
5 Such report shall include the number of personal
6 searches conducted in each sector and field office,
7 the number of invasive personal searches conducted
8 in each sector and field office, whether personal
9 searches were conducted by Office of Field Oper-
10 ations or U.S. Border Patrol personnel, and how
11 many personal searches resulted in the discovery of
12 contraband.

13 (j) TRUSTED TRAVELER PROGRAMS.—The Secretary
14 of Homeland Security may not enter into or renew an
15 agreement with the government of a foreign country for
16 a trusted traveler program administered by U.S. Customs
17 and Border Protection unless the Secretary certifies in
18 writing that such government—

19 (1) routinely submits to INTERPOL for inclu-
20 sion in INTERPOL's Stolen and Lost Travel Docu-
21 ments database information about lost and stolen
22 passports and travel documents of the citizens and
23 nationals of such country; or

1 (2) makes available to the United States Gov-
2 ernment the information described in paragraph (1)
3 through another means of reporting.

4 (k) SENSE OF CONGRESS REGARDING THE FOREIGN
5 LANGUAGE AWARD PROGRAM.—

6 (1) FINDINGS.—Congress finds the following:

7 (A) Congress established the Foreign Lan-
8 guage Award Program (FLAP) to incentivize
9 employees at United States ports of entry to
10 utilize their foreign language skills on the job
11 by providing a financial incentive for the use of
12 the foreign language for at least ten percent of
13 their duties after passage of competency tests.
14 FLAP incentivizes the use of more than two
15 dozen languages and has been instrumental in
16 identifying and utilizing U.S. Customs and Bor-
17 der Protection officers and agents who are pro-
18 ficient in a foreign language.

19 (B) In 1993, Congress provided for dedi-
20 cated funding for this program by stipulating
21 that certain fees collected by U.S. Customs and
22 Border Protection be used to fund FLAP.

23 (C) Through FLAP, foreign travelers are
24 aided by having an officer at a port of entry
25 who speaks their language, and U.S. Customs

1 and Border Protection benefits by being able to
2 focus its border security efforts in a more effec-
3 tive manner.

4 (2) SENSE OF CONGRESS.—It is the sense of
5 Congress that FLAP incentivizes U.S. Customs and
6 Border Protection officers to attain and maintain
7 competency in a foreign language, thereby improving
8 the efficiency of operations for the functioning of
9 U.S. Customs and Border Protection’s security mis-
10 sion, making the United States a more welcoming
11 place when foreign travelers find officers can com-
12 municate in their language, and helping to expedite
13 traveler processing to reduce wait times.

14 **TITLE IX—MISCELLANEOUS**
15 **PROVISIONS**

16 **SEC. 901. DE MINIMIS VALUE.**

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

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

1 **SEC. 902. CONSULTATION ON TRADE AND CUSTOMS REV-**
2 **ENUE FUNCTIONS.**

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

5 (1) in paragraph (1), by striking “on Depart-
6 ment policies and actions that have” and inserting
7 “not later than 30 days after proposing, and not
8 later than 30 days before finalizing, any Department
9 policies, initiatives, or actions that will have”; and

10 (2) in paragraph (2)(A), by striking “not later
11 than 30 days prior to the finalization of” and insert-
12 ing “not later than 60 days before proposing, and
13 not later than 60 days before finalizing,”.

14 **SEC. 903. PENALTIES FOR CUSTOMS BROKERS.**

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

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

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

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

22 “(G) has been convicted of committing or
23 conspiring to commit an act of terrorism de-
24 scribed in section 2332b of title 18, United
25 States Code.”.

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

3 (1) by striking “the Customs Service” each
4 place it appears and inserting “U.S. Customs and
5 Border Protection”;

6 (2) in subsection (d)(2)(B), by striking “The
7 Customs Service” and inserting “U.S. Customs and
8 Border Protection”; and

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

12 **SEC. 904. AMENDMENTS TO CHAPTER 98 OF THE HAR-**
13 **MONIZED TARIFF SCHEDULE OF THE UNITED**
14 **STATES.**

15 (a) ARTICLES EXPORTED AND RETURNED, AD-
16 VANCED OR IMPROVED ABROAD.—

17 (1) IN GENERAL.—U.S. Note 3 to subchapter
18 II of chapter 98 of the Harmonized Tariff Schedule
19 of the United States is amended by adding at the
20 end the following:

21 “(f)(1) For purposes of subheadings 9802.00.40 and
22 9802.00.50, fungible articles exported from the United
23 States for the purposes described in such subheadings—

24 “(A) may be commingled; and

1 “(B) the origin, value, and classification of such
2 articles may be accounted for using an inventory
3 management method.

4 “(2) If a person chooses to use an inventory manage-
5 ment method under this paragraph with respect to fun-
6 gible articles, the person shall use the same inventory
7 management method for any other articles with respect
8 to which the person claims fungibility under this para-
9 graph.

10 “(3) For the purposes of this paragraph—

11 “(A) the term ‘fungible articles’ means mer-
12 chandise or articles that, for commercial purposes,
13 are identical or interchangeable in all situations; and

14 “(B) the term ‘inventory management method’
15 means any method for managing inventory that is
16 based on generally accepted accounting principles.”.

17 (2) EFFECTIVE DATE.—The amendment made
18 by this subsection applies to articles classifiable
19 under subheading 9802.00.40 or 9802.00.50 of the
20 Harmonized Tariff Schedule of the United States
21 that are entered, or withdrawn from warehouse for
22 consumption, on or after the date that is 60 days
23 after the date of the enactment of this Act.

24 (b) MODIFICATION OF PROVISIONS RELATING TO
25 RETURNED PROPERTY.—

1 (1) IN GENERAL.—The article description for
 2 heading 9801.00.10 of the Harmonized Tariff
 3 Schedule of the United States is amended by insert-
 4 ing after “exported” the following: “, or any other
 5 products when returned within 3 years after having
 6 been exported”.

7 (2) EFFECTIVE DATE.—The amendment made
 8 by paragraph (1) applies to articles entered, or with-
 9 drawn from warehouse for consumption, on or after
 10 the date that is 60 days after the date of the enact-
 11 ment of this Act.

12 (c) DUTY-FREE TREATMENT FOR CERTAIN UNITED
 13 STATES GOVERNMENT PROPERTY RETURNED TO THE
 14 UNITED STATES.—

15 (1) IN GENERAL.—Subchapter I of chapter 98
 16 of the Harmonized Tariff Schedule of the United
 17 States is amended by inserting in numerical se-
 18 quence the following new heading:

“	9801.00.11	United States Government property, returned to the United States without having been advanced in value or improved in condition by any means while abroad, entered by the United States Government or a contractor to the United States Government, and certified by the importer as United States Government property	Free	”.
---	------------	--	------	----

19 (2) EFFECTIVE DATE.—The amendment made
 20 by paragraph (1) applies to goods entered, or with-

1 drawn from warehouse for consumption, on or after
2 the date that is 60 days after the date of the enact-
3 ment of this Act.

4 **SEC. 905. EXEMPTION FROM DUTY OF RESIDUE OF BULK**
5 **CARGO CONTAINED IN INSTRUMENTS OF**
6 **INTERNATIONAL TRAFFIC PREVIOUSLY EX-**
7 **PORTED FROM THE UNITED STATES.**

8 (a) IN GENERAL.—General Note 3(e) of the Har-
9 monized Tariff Schedule of the United States is amend-
10 ed—

11 (1) in subparagraph (v), by striking “and” at
12 the end;

13 (2) in subparagraph (vi), by adding “and” at
14 the end;

15 (3) by inserting after subparagraph (vi) (as so
16 amended) the following new subparagraph:

17 “(vii) residue of bulk cargo contained in
18 instruments of international traffic previously
19 exported from the United States,”; and

20 (4) by adding at the end of the flush text fol-
21 lowing subparagraph (vii) (as so added) the fol-
22 lowing: “For purposes of subparagraph (vii) of this
23 paragraph: The term ‘residue’ means material of
24 bulk cargo that remains in an instrument of inter-
25 national traffic after the bulk cargo is removed, with

1 a quantity, by weight or volume, not exceeding 7
2 percent of the bulk cargo, and with no or de minimis
3 value. The term ‘bulk cargo’ means cargo that is
4 unpackaged and is in either solid, liquid, or gaseous
5 form. The term ‘instruments of international traffic’
6 means containers or holders, capable of and suitable
7 for repeated use, such as lift vans, cargo vans, ship-
8 ping tanks, skids, pallets, caul boards, and cores for
9 textile fabrics, arriving (whether loaded or empty) in
10 use or to be used in the shipment of merchandise in
11 international traffic, and any additional articles or
12 classes of articles that the Commissioner of U.S.
13 Customs and Border Protection designates as in-
14 struments of international traffic.”.

15 (b) **EFFECTIVE DATE.**—The amendments made by
16 subsection (a) take effect on the date of the enactment
17 of this Act and apply with respect to residue of bulk cargo
18 contained in instruments of international traffic that are
19 imported into the customs territory of the United States
20 on or after such date of enactment and that previously
21 have been exported from the United States.

22 **SEC. 906. DRAWBACK AND REFUNDS.**

23 (a) **ARTICLES MADE FROM IMPORTED MERCHAN-**
24 **DISE.**—Section 313(a) of the Tariff Act of 1930 (19
25 U.S.C. 1313(a)) is amended by striking “the full amount

1 of the duties paid upon the merchandise so used shall be
2 refunded as drawback, less 1 per centum of such duties,
3 except that such” and inserting “an amount calculated
4 pursuant to regulations prescribed by the Secretary of the
5 Treasury under subsection (l) shall be refunded as draw-
6 back, except that”.

7 (b) SUBSTITUTION FOR DRAWBACK PURPOSES.—
8 Section 313(b) of the Tariff Act of 1930 (19 U.S.C.
9 1313(b)) is amended—

10 (1) by striking “If imported” and inserting the
11 following:

12 “(1) IN GENERAL.—If imported”;

13 (2) by striking “and any other merchandise
14 (whether imported or domestic) of the same kind
15 and quality are” and inserting “or merchandise clas-
16 sifiable under the same 8-digit HTS subheading
17 number as such imported merchandise is”;

18 (3) by striking “three years” and inserting “5
19 years”;

20 (4) by striking “the receipt of such imported
21 merchandise by the manufacturer or producer of
22 such articles” and inserting “the date of importation
23 of such imported merchandise”;

24 (5) by striking “an amount of drawback equal
25 to” and all that follows through the end period and

1 inserting “an amount calculated pursuant to regula-
2 tions prescribed by the Secretary of the Treasury
3 under subsection (l), but only if those articles have
4 not been used prior to such exportation or destruc-
5 tion.”; and

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

7 “(2) REQUIREMENTS RELATING TO TRANSFER
8 OF MERCHANDISE.—

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

19 “(B) EXPORTERS AND DESTROYERS.—
20 Drawback shall be allowed under paragraph (1)
21 with respect to a manufactured or produced ar-
22 ticle that is exported or destroyed only if the
23 exporter or destroyer received that article, di-
24 rectly or indirectly, from the manufacturer or
25 producer.

1 “(C) EVIDENCE OF TRANSFER.—Transfers
2 of merchandise under subparagraph (A) and
3 transfers of articles under subparagraph (B)
4 may be evidenced by business records kept in
5 the normal course of business and no additional
6 certificates of transfer or manufacture shall be
7 required.

8 “(3) SUBMISSION OF BILL OF MATERIALS OR
9 FORMULA.—

10 “(A) IN GENERAL.—Drawback shall be al-
11 lowed under paragraph (1) with respect to an
12 article manufactured or produced using im-
13 ported merchandise or other merchandise classi-
14 fiable under the same 8-digit HTS subheading
15 number as such imported merchandise only if
16 the person making the drawback claim submits
17 with the claim a bill of materials or formula
18 identifying the merchandise and article by the
19 8-digit HTS subheading number and the quan-
20 tity of the merchandise.

21 “(B) BILL OF MATERIALS AND FORMULA
22 DEFINED.—In this paragraph, the terms ‘bill of
23 materials’ and ‘formula’ mean records kept in
24 the normal course of business that identify each
25 component incorporated into a manufactured or

1 produced article or that identify the quantity of
2 each element, material, chemical, mixture, or
3 other substance incorporated into a manufac-
4 tured article.

5 “(4) SPECIAL RULE FOR SOUGHT CHEMICAL
6 ELEMENTS.—

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

9 “(i) considered imported merchandise,
10 or merchandise classifiable under the same
11 8-digit HTS subheading number as such
12 imported merchandise, used in the manu-
13 facture or production of an article as de-
14 scribed in paragraph (1); and

15 “(ii) substituted for source material
16 containing that sought chemical element,
17 without regard to whether the sought
18 chemical element and the source material
19 are classifiable under the same 8-digit
20 HTS subheading number, and apportioned
21 quantitatively, as appropriate.

22 “(B) SOUGHT CHEMICAL ELEMENT DE-
23 FINED.—In this paragraph, the term ‘sought
24 chemical element’ means an element listed in
25 the Periodic Table of Elements that is imported

1 into the United States or a chemical compound
2 consisting of those elements, either separately
3 in elemental form or contained in source mate-
4 rial.”.

5 (c) MERCHANDISE NOT CONFORMING TO SAMPLE OR
6 SPECIFICATIONS.—Section 313(c) of the Tariff Act of
7 1930 (19 U.S.C. 1313(c)) is amended—

8 (1) in paragraph (1)—

9 (A) in subparagraph (C)(ii), by striking
10 “under a certificate of delivery” each place it
11 appears;

12 (B) in subparagraph (D)—

13 (i) by striking “3” and inserting “5”;
14 and

15 (ii) by striking “the Customs Service”
16 and inserting “U.S. Customs and Border
17 Protection”; and

18 (C) in the flush text at the end, by striking
19 “the full amount of the duties paid upon such
20 merchandise, less 1 percent,” and inserting “an
21 amount calculated pursuant to regulations pre-
22 scribed by the Secretary of the Treasury under
23 subsection (l)”;

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

4 (3) by amending paragraph (3) to read as fol-
5 lows:

6 “(3) EVIDENCE OF TRANSFERS.—Transfers of
7 merchandise under paragraph (1) may be evidenced
8 by business records kept in the normal course of
9 business and no additional certificates of transfer
10 shall be required.”.

11 (d) PROOF OF EXPORTATION.—Section 313(i) of the
12 Tariff Act of 1930 (19 U.S.C. 1313(i)) is amended to read
13 as follows:

14 “(i) PROOF OF EXPORTATION.—A person claiming
15 drawback under this section based on the exportation of
16 an article shall provide proof of the exportation of the arti-
17 cle. Such proof of exportation—

18 “(1) shall establish fully the date and fact of
19 exportation and the identity of the exporter; and

20 “(2) may be established through the use of
21 records kept in the normal course of business or
22 through an electronic export system of the United
23 States Government, as determined by the Commis-
24 sioner of U.S. Customs and Border Protection.”.

1 (e) UNUSED MERCHANDISE DRAWBACK.—Section
2 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is
3 amended—

4 (1) in paragraph (1)—

5 (A) in subparagraph (A), in the matter
6 preceding clause (i)—

7 (i) by striking “3-year” and inserting
8 “5-year”; and

9 (ii) by inserting “and before the draw-
10 back claim is filed” after “the date of im-
11 portation”; and

12 (B) in the flush text at the end, by striking
13 “99 percent of the amount of each duty, tax, or
14 fee so paid” and inserting “an amount cal-
15 culated pursuant to regulations prescribed by
16 the Secretary of the Treasury under subsection
17 (1)”;

18 (2) in paragraph (2)—

19 (A) in the matter preceding subparagraph
20 (A), by striking “paragraph (4)” and inserting
21 “paragraphs (4), (5), and (6)”;

22 (B) in subparagraph (A), by striking
23 “commercially interchangeable with” and in-
24 serting “classifiable under the same 8-digit
25 HTS subheading number as”;

1 (C) in subparagraph (B)—

2 (i) by striking “3-year” and inserting
3 “5-year”; and

4 (ii) by inserting “and before the draw-
5 back claim is filed” after “the imported
6 merchandise”; and

7 (D) in subparagraph (C)(ii), by striking
8 subclause (II) and inserting the following:

9 “(II) received the imported mer-
10 chandise, other merchandise classifi-
11 able under the same 8-digit HTS sub-
12 heading number as such imported
13 merchandise, or any combination of
14 such imported merchandise and such
15 other merchandise, directly or indi-
16 rectly from the person who imported
17 and paid any duties, taxes, and fees
18 imposed under Federal law upon im-
19 portation or entry and due on the im-
20 ported merchandise (and any such
21 transferred merchandise, regardless of
22 its origin, will be treated as the im-
23 ported merchandise and any retained
24 merchandise will be treated as domes-
25 tic merchandise);”;

1 (E) in the flush text at the end—

2 (i) by striking “the amount of each
3 such duty, tax, and fee” and all that fol-
4 lows through “99 percent of that duty, tax,
5 or fee” and inserting “an amount cal-
6 culated pursuant to regulations prescribed
7 by the Secretary of the Treasury under
8 subsection (l) shall be refunded as draw-
9 back”; and

10 (ii) by striking the last sentence and
11 inserting the following: “Notwithstanding
12 subparagraph (A), drawback shall be al-
13 lowed under this paragraph with respect to
14 wine if the imported wine and the exported
15 wine are of the same color and the price
16 variation between the imported wine and
17 the exported wine does not exceed 50 per-
18 cent. Transfers of merchandise may be evi-
19 denced by business records kept in the nor-
20 mal course of business and no additional
21 certificates of transfer shall be required.”;
22 and

23 (3) in paragraph (3)(B), by striking “the com-
24 mercially interchangeable merchandise” and insert-
25 ing “merchandise classifiable under the same 8-digit

1 HTS subheading number as such imported merchan-
2 dise”; and

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

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

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

15 “(i) the other merchandise and such im-
16 ported merchandise are classifiable under the
17 same 10-digit HTS statistical reporting num-
18 ber; and

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

22 “(6)(A) For purposes of paragraph (2), a draw-
23 back claimant may use the first 8 digits of the 10-
24 digit Schedule B number for merchandise or an arti-
25 cle to determine if the merchandise or article is clas-

1 sifiable under the same 8-digit HTS subheading
2 number as the imported merchandise, without re-
3 gard to whether the Schedule B number corresponds
4 to more than one 8-digit HTS subheading number.

5 “(B) In this paragraph, the term ‘Schedule B’
6 means the Department of Commerce Schedule B,
7 Statistical Classification of Domestic and Foreign
8 Commodities Exported from the United States.”.

9 (f) LIABILITY FOR DRAWBACK CLAIMS.—Section
10 313(k) of the Tariff Act of 1930 (19 U.S.C. 1313(k)) is
11 amended to read as follows:

12 “(k) LIABILITY FOR DRAWBACK CLAIMS.—

13 “(1) IN GENERAL.—Any person making a claim
14 for drawback under this section, shall be liable for
15 the full amount of the drawback claimed.

16 “(2) LIABILITY OF IMPORTERS.—An importer
17 shall be liable for any drawback claim made by an-
18 other person with respect to merchandise imported
19 by the importer in an amount equal to the lesser
20 of—

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

24 “(B) the amount of duties, taxes, and fees
25 that the importer authorized the other person

1 to claim with respect to the imported merchan-
2 dise.

3 “(3) JOINT AND SEVERAL LIABILITY.—Persons
4 described in paragraphs (1) and (2) shall be jointly
5 and severally liable for the amount described in
6 paragraph (2).”.

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

9 “(1) REGULATIONS.—

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

14 “(2) CALCULATION OF DRAWBACK.—

15 “(A) IN GENERAL.—Not later than the
16 date that is 2 years after the date of the enact-
17 ment of the Trade Facilitation and Trade En-
18 forcement Act of 2015 (or, if later, the effective
19 date provided for in section 906(q)(2)(B) of
20 that Act), the Secretary shall prescribe regula-
21 tions for determining the calculation of
22 amounts refunded as drawback under this sec-
23 tion.

24 “(B) CLAIMS WITH RESPECT TO UNUSED
25 MERCHANDISE.—The regulations required by

1 subparagraph (A) for determining the calcula-
2 tion of amounts refunded as drawback under
3 this section shall provide for a refund of equal
4 to 99 percent of the duties, taxes, and fees paid
5 with respect to the imported merchandise, ex-
6 cept that where there is substitution of the mer-
7 chandise or article, then—

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

11 “(I) the amount of duties, taxes,
12 and fees paid with respect to the im-
13 ported merchandise; or

14 “(II) the amount of duties, taxes,
15 and fees that would apply to the ex-
16 ported article if the exported article
17 were imported; and

18 “(ii) in the case of an article that is
19 destroyed, the amount of the refund shall
20 be an amount that is—

21 “(I) equal to 99 percent of the
22 lesser of—

23 “(aa) the amount of duties,
24 taxes, and fees paid with respect
25 to the imported merchandise; and

1 “(bb) the amount of duties,
2 taxes, and fees that would apply
3 to the destroyed article if the de-
4 stroyed article were imported;
5 and

6 “(II) reduced by the value of ma-
7 terials recovered during destruction as
8 provided in subsection (x).

9 “(C) CLAIMS WITH RESPECT TO ARTICLES
10 INTO WHICH SUBSTITUTE MERCHANDISE IS IN-
11 CORPORATED.—The regulations required by
12 subparagraph (A) for determining the calcula-
13 tion of amounts refunded as drawback under
14 this section shall provide for a refund of 99 per-
15 cent of the duties, taxes, and fees paid with re-
16 spect to the imported merchandise incorporated
17 into an article that is exported or destroyed, ex-
18 cept that where there is substitution of the im-
19 ported merchandise, then—

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

23 “(I) the amount of duties, taxes,
24 and fees paid with respect to the im-
25 ported merchandise; or

1 “(II) the amount of duties, taxes,
2 and fees that would apply to the sub-
3 stituted merchandise if the substituted
4 merchandise were imported; and

5 “(ii) in the case of an article that is
6 destroyed, the amount of the refund shall
7 be an amount that is—

8 “(I) equal to 99 percent of the
9 lesser of—

10 “(aa) the amount of duties,
11 taxes, and fees paid with respect
12 to the imported merchandise; and

13 “(bb) the amount of duties,
14 taxes, and fees that would apply
15 to the substituted merchandise if
16 the substituted merchandise were
17 imported; and

18 “(II) reduced by the value of ma-
19 terials recovered during destruction as
20 provided in subsection (x).

21 “(3) STATUS REPORTS ON REGULATIONS.—Not
22 later than the date that is one year after the date
23 of the enactment of the Trade Facilitation and
24 Trade Enforcement Act of 2015, and annually there-
25 after until the regulations required by paragraph (2)

1 are final, the Secretary shall submit to Congress a
2 report on the status of those regulations.”.

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

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

9 (2) in paragraph (3)(A)—

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

13 (B) in the flush text at the end—

14 (i) by striking “, so designated on the
15 certificate of delivery or certificate of man-
16 ufacture and delivery”; and

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

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

24 (1) in paragraph (1), by striking “of 99 percent
25 of any duty, tax, or fee imposed under Federal law

1 on such imported material” and inserting “in an
2 amount calculated pursuant to regulations pre-
3 scribed by the Secretary of the Treasury under sub-
4 section (1)”;

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

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

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

17 (1) in paragraph (1)—

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

24 (B) in the second sentence, by striking “3-
25 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 906(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 (e)” and inserting “(e), 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) of this section, the
5 Comptroller General of the United States shall sub-
6 mit to the Committee on Finance of the Senate and
7 the Committee on Ways and Means of the House of
8 Representatives a report on the modernization of
9 drawback and refunds under section 313 of the Tar-
10 iff 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) apply to drawback claims filed on or
7 after the date that is 2 years after such date
8 of enactment.

9 (2) REPORTING OF OPERABILITY OF AUTO-
10 MATED COMMERCIAL ENVIRONMENT COMPUTER SYS-
11 TEM.—Not later than one year after the date of the
12 enactment of this Act, and not later than 2 years
13 after such date of enactment, the Secretary of the
14 Treasury shall submit to Congress a report on—

15 (A) the date on which the Automated Com-
16 mercial Environment will be ready to process
17 drawback claims; and

18 (B) the date on which the Automated Ex-
19 port System will be ready to accept proof of ex-
20 portation under subsection (i) of section 313 of
21 the Tariff Act of 1930, as amended by sub-
22 section (d).

23 (3) TRANSITION RULE.—During the one-year
24 period beginning on the date that is 2 years after
25 the date of the enactment of this Act (or, if later,

1 the effective date provided for in paragraph (2)(B)),
2 a person may elect to file a claim for drawback
3 under—

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

6 (B) section 313 of the Tariff Act of 1930,
7 as in effect on the day before the date of the
8 enactment of this Act.

9 **SEC. 907. OFFICE OF THE UNITED STATES TRADE REP-**
10 **RESENTATIVE.**

11 (a) ANNUAL REPORT ON TRADE AGREEMENTS PRO-
12 GRAM AND NATIONAL TRADE POLICY AGENDA.—Section
13 163(a) of the Trade Act of 1974 (19 U.S.C. 2213(a)) is
14 amended—

15 (1) in paragraph (1)—

16 (A) in subparagraph (A), by striking
17 “and” at the end;

18 (B) in subparagraph (B), by striking the
19 period at the end and inserting “; and”; and

20 (C) by adding at the end the following:

21 “(C) the operation of all United States
22 Trade Representative-led interagency programs
23 during the preceding year and for the year in
24 which the report is submitted.”; and

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

1 “(4) The report shall include, with respect to
2 the matters referred to in paragraph (1)(C), infor-
3 mation regarding—

4 “(A) the objectives and priorities of all
5 United States Trade Representative-led inter-
6 agency programs for the year, and the reasons
7 therefor;

8 “(B) the actions proposed, or anticipated,
9 to be undertaken during the year to achieve
10 such objectives and priorities, including actions
11 authorized under the trade laws and negotia-
12 tions with foreign countries;

13 “(C) the role of each Federal agency par-
14 ticipating in the interagency program in achiev-
15 ing such objectives and priorities and activities
16 of each agency with respect to their participa-
17 tion in the program;

18 “(D) the United States Trade Representa-
19 tive’s coordination of each participating Federal
20 agency to more effectively achieve such objec-
21 tives and priorities;

22 “(E) any proposed legislation necessary or
23 appropriate to achieve any of such objectives or
24 priorities; and

1 “(F) the progress that was made during
2 the preceding year in achieving such objectives
3 and priorities and coordination activities in-
4 cluded in the statement provided for such year
5 under this paragraph.”.

6 (b) RESOURCE MANAGEMENT AND STAFFING
7 PLANS.—

8 (1) ANNUAL PLAN.—

9 (A) IN GENERAL.—The United States
10 Trade Representative shall on an annual basis
11 develop a plan—

12 (i) to match available resources of the
13 Office of the United States Trade Rep-
14 resentative to projected workload and pro-
15 vide a detailed analysis of how the funds
16 allocated from the prior fiscal year to date
17 have been spent;

18 (ii) to identify existing staff of the Of-
19 fice and new staff that will be necessary to
20 support the trade negotiation and enforce-
21 ment functions and powers of the Office
22 (including those of the Trade Policy Staff
23 Committee) as described in section 141 of
24 the Trade Act of 1974 (19 U.S.C. 2171)

1 and section 301 of the Trade Act of 1974
2 (19 U.S.C. 2411);

3 (iii) to identify existing staff of the
4 Office and staff of other Federal agencies
5 who will be required to be detailed to sup-
6 port United States Trade Representative-
7 led interagency programs, including any
8 associated expenses; and

9 (iv) to provide a detailed analysis of
10 the budgetary requirements of United
11 States Trade Representative-led inter-
12 agency programs for the next fiscal year
13 and provide a detailed analysis of how the
14 funds allocated from the prior fiscal year
15 to date have been spent.

16 (B) REPORT.—The United States Trade
17 Representative shall submit to the Committee
18 on Ways and Means and the Committee on Ap-
19 propriations of the House of Representatives
20 and the Committee on Finance and the Com-
21 mittee on Appropriations of the Senate a report
22 that contains the plan required under subpara-
23 graph (A). The report required under this sub-
24 paragraph shall be submitted in conjunction
25 with the annual budget of the United States

1 Government required to be submitted to Con-
2 gress under section 1105 of title 31, United
3 States Code.

4 (2) QUADRENNIAL PLAN.—

5 (A) IN GENERAL.—Pursuant to the goals
6 and objectives of the strategic plan of the Office
7 of the United States Trade Representative as
8 required under section 306 of title 5, United
9 States Code, the United States Trade Rep-
10 resentative shall every 4 years develop a plan—

11 (i) to analyze internal quality controls
12 and record management of the Office;

13 (ii) to identify existing staff of the Of-
14 fice and new staff that will be necessary to
15 support the trade negotiation and enforce-
16 ment functions and powers of the Office
17 (including those of the Trade Policy Staff
18 Committee) as described in section 141 of
19 the Trade Act of 1974 (19 U.S.C. 2171)
20 and section 301 of the Trade Act of 1974
21 (19 U.S.C. 2411);

22 (iii) to identify existing staff of the
23 Office and staff in other Federal agencies
24 who will be required to be detailed to sup-
25 port United States Trade Representative-

1 led interagency programs, including any
2 associated expenses;

3 (iv) to provide an outline of budget
4 justifications, including salaries and ex-
5 penses as well as non-personnel adminis-
6 trative expenses, for the fiscal years re-
7 quired under the strategic plan; and

8 (v) to provide an outline of budget
9 justifications, including salaries and ex-
10 penses as well as non-personnel adminis-
11 trative expenses, for United States Trade
12 Representative-led interagency programs
13 for the fiscal years required under the
14 strategic plan.

15 (B) REPORT.—

16 (i) IN GENERAL.—The United States
17 Trade Representative shall submit to the
18 Committee on Ways and Means and the
19 Committee on Appropriations of the House
20 of Representatives and the Committee on
21 Finance and the Committee on Appropria-
22 tions of the Senate a report that contains
23 the plan required under subparagraph (A).
24 Except as provided in clause (ii), the re-
25 port required under this clause shall be

1 submitted in conjunction with the strategic
2 plan of the Office as required under sec-
3 tion 306 of title 5, United States Code.

4 (ii) EXCEPTION.—The United States
5 Trade Representative shall submit to the
6 congressional committees specified in
7 clause (i) an initial report that contains
8 the plan required under subparagraph (A)
9 not later than February 1, 2016.

10 **SEC. 908. UNITED STATES-ISRAEL TRADE AND COMMER-**
11 **CIAL ENHANCEMENT.**

12 (a) FINDINGS.—Congress finds the following:

13 (1) Israel is America’s dependable, democratic
14 ally in the Middle East—an area of paramount stra-
15 tegic importance to the United States.

16 (2) The United States-Israel Free Trade Agree-
17 ment formed the modern foundation of the bilateral
18 commercial relationship between the two countries
19 and was the first such agreement signed by the
20 United States with a foreign country.

21 (3) The United States-Israel Free Trade Agree-
22 ment has been instrumental in expanding commerce
23 and the strategic relationship between the United
24 States and Israel.

1 (4) More than \$45 billion in goods and services
2 is traded annually between the two countries in ad-
3 dition to roughly \$10 billion in United States foreign
4 direct investment in Israel.

5 (5) The United States continues to look for and
6 find new opportunities to enhance cooperation with
7 Israel, including through the enactment of the
8 United States-Israel Enhanced Security Cooperation
9 Act of 2012 (Public Law 112–150) and the United
10 States-Israel Strategic Partnership Act of 2014
11 (Public Law 113–296).

12 (6) It has been the policy of the United States
13 Government to combat all elements of the Arab
14 League Boycott of Israel by—

15 (A) public statements of Administration of-
16 ficials;

17 (B) enactment of relevant sections of the
18 Export Administration Act of 1979 (as contin-
19 ued in effect pursuant to the International
20 Emergency Economic Powers Act), including
21 sections to ensure foreign persons comply with
22 applicable reporting requirements relating to
23 the boycott;

1 (C) enactment of the 1976 Tax Reform
2 Act (Public Law 94-455) that denies certain
3 tax benefits to entities abiding by the boycott;

4 (D) ensuring through free trade agree-
5 ments with Bahrain and Oman that such coun-
6 tries no longer participate in the boycott; and

7 (E) ensuring as a condition of membership
8 in the World Trade Organization that Saudi
9 Arabia no longer enforces the secondary or ter-
10 tiary elements of the boycott.

11 (b) STATEMENTS OF POLICY.—Congress—

12 (1) supports the strengthening of United
13 States-Israel economic cooperation and recognizes
14 the tremendous strategic, economic, and techno-
15 logical value of cooperation with Israel;

16 (2) recognizes the benefit of cooperation with
17 Israel to United States companies, including by im-
18 proving American competitiveness in global markets;

19 (3) recognizes the importance of trade and com-
20 mercial relations to the pursuit and sustainability of
21 peace, and supports efforts to bring together the
22 United States, Israel, the Palestinian territories, and
23 others in enhanced commerce;

24 (4) opposes politically motivated actions that
25 penalize or otherwise limit commercial relations spe-

1 cifically with Israel such as boycotts, divestment or
2 sanctions;

3 (5) notes that the boycott, divestment, and
4 sanctioning of Israel by governments, governmental
5 bodies, quasi-governmental bodies, international or-
6 ganizations, and other such entities is contrary to
7 the General Agreement on Tariffs and Trade
8 (GATT) principle of non-discrimination;

9 (6) encourages the inclusion of politically moti-
10 vated actions that penalize or otherwise limit com-
11 mercial relations specifically with Israel such as boy-
12 cotts, divestment from, or sanctions against Israel as
13 a topic of discussion at the U.S.-Israel Joint Eco-
14 nomic Development Group (JEDG) and other areas
15 to support the strengthening of the United States-
16 Israel commercial relationship and combat any com-
17 mercial discrimination against Israel;

18 (7) supports efforts to prevent investigations or
19 prosecutions by governments or international organi-
20 zations of United States persons on the sole basis of
21 such persons doing business with Israel, with Israeli
22 entities, or in Israeli-controlled territories; and

23 (8) supports American States examining a com-
24 pany's promotion or compliance with unsanctioned
25 boycotts, divestment from, or sanctions against

1 Israel as part of its consideration in awarding grants
2 and contracts and supports the divestment of State
3 assets from companies that support or promote ac-
4 tions to boycott, divest from, or sanction Israel.

5 (c) PRINCIPAL TRADE NEGOTIATING OBJECTIVES OF
6 THE UNITED STATES.—

7 (1) COMMERCIAL PARTNERSHIPS.—Among the
8 principal trade negotiating objectives of the United
9 States for proposed trade agreements with foreign
10 countries regarding commercial partnerships are the
11 following:

12 (A) To discourage actions by potential
13 trading partners that directly or indirectly prej-
14 udice or otherwise discourage commercial activ-
15 ity solely between the United States and Israel.

16 (B) To discourage politically motivated ac-
17 tions to boycott, divest from, or sanction Israel
18 and to seek the elimination of politically moti-
19 vated non-tariff barriers on Israeli goods, serv-
20 ices, or other commerce imposed on the State of
21 Israel.

22 (C) To seek the elimination of state-spon-
23 sored unsanctioned foreign boycotts against
24 Israel or compliance with the Arab League Boy-
25 cott of Israel by prospective trading partners.

1 (2) EFFECTIVE DATE.—This subsection takes
2 effect on the date of the enactment of this Act and
3 applies with respect to negotiations commenced be-
4 fore, on, or after the date of the enactment of this
5 Act.

6 (d) REPORT ON POLITICALLY MOTIVATED ACTS OF
7 BOYCOTT, DIVESTMENT FROM, AND SANCTIONS AGAINST
8 ISRAEL.—

9 (1) IN GENERAL.—Not later than 180 days
10 after the date of the enactment of this Act, and an-
11 nually thereafter, the President shall submit to Con-
12 gress a report on politically motivated acts of boy-
13 cott, divestment from, and sanctions against Israel.

14 (2) MATTERS TO BE INCLUDED.—The report
15 required by paragraph (1) shall include the fol-
16 lowing:

17 (A) A description of the establishment of
18 barriers to trade, including non-tariff barriers,
19 investment, or commerce by foreign countries or
20 international organizations against United
21 States persons operating or doing business in
22 Israel, with Israeli entities, or in Israeli-con-
23 trolled territories.

24 (B) A description of specific steps being
25 taken by the United States to encourage foreign

1 countries and international organizations to
2 cease creating such barriers and to dismantle
3 measures already in place and an assessment of
4 the effectiveness of such steps.

5 (C) A description of specific steps being
6 taken by the United States to prevent investiga-
7 tions or prosecutions by governments or inter-
8 national organizations of United States persons
9 on the sole basis of such persons doing business
10 with Israel, with Israeli entities, or in Israeli-
11 controlled territories.

12 (D) Decisions by foreign persons, including
13 corporate entities and state-affiliated financial
14 institutions, that limit or prohibit economic re-
15 lations with Israel or persons doing business in
16 Israel or in Israeli controlled territories.

17 (e) CERTAIN FOREIGN JUDGMENTS AGAINST
18 UNITED STATES PERSONS.—Notwithstanding any other
19 provision of law, no domestic court shall recognize or en-
20 force any foreign judgment entered against a United
21 States person that conducts business operations in Israel,
22 or any territory controlled by Israel, if the domestic court
23 determines that the foreign judgment is based, in whole
24 or in part, on a determination by a foreign court that the
25 United States person's conducting business operations

1 therein or with Israeli entities constitutes a violation of
2 law.

3 (f) DEFINITIONS.—In this section:

4 (1) BOYCOTT, DIVESTMENT FROM, AND SANC-
5 TIONS AGAINST ISRAEL.—The term “boycott, divest-
6 ment from, and sanctions against Israel” means ac-
7 tions by states, non-member states of the United
8 Nations, international organizations, or affiliated
9 agencies of international organizations that are po-
10 litically motivated and are intended to penalize or
11 otherwise limit commercial relations specifically with
12 Israel or persons doing business in Israel or in
13 Israeli-controlled territories.

14 (2) DOMESTIC COURT.—The term “domestic
15 court” means a Federal court of the United States,
16 or a court of any State or territory of the United
17 States or of the District of Columbia.

18 (3) FOREIGN COURT.—The term “foreign
19 court” means a court, an administrative body, or
20 other tribunal of a foreign country.

21 (4) FOREIGN JUDGMENT.—The term “foreign
22 judgment” means a final civil judgment rendered by
23 a foreign court.

24 (5) FOREIGN PERSON.—The term “foreign per-
25 son” means—

1 (A) any natural person who is not lawfully
2 admitted for permanent residence (as defined in
3 section 101(a)(20) of the Immigration and Na-
4 tionality Act (8 U.S.C. 1101(a)(20)) or who is
5 not a protected individual (as defined in section
6 274B(a)(3) of such Act (8 U.S.C. 1324b(a)(3));
7 or

8 (B) any foreign corporation, business asso-
9 ciation, partnership, trust, society or any other
10 entity or group that is not incorporated or orga-
11 nized to do business in the United States, as
12 well as any international organization, foreign
13 government and any agency or subdivision of
14 foreign government, including a diplomatic mis-
15 sion.

16 (6) PERSON.—

17 (A) IN GENERAL.—The term “person”
18 means—

19 (i) a natural person;

20 (ii) a corporation, business associa-
21 tion, partnership, society, trust, financial
22 institution, insurer, underwriter, guar-
23 antor, and any other business organization,
24 any other nongovernmental entity, organi-

1 zation, or group, and any governmental en-
2 tity operating as a business enterprise; and
3 (iii) any successor to any entity de-
4 scribed in clause (ii).

5 (B) APPLICATION TO GOVERNMENTAL EN-
6 TITIES.—The term “person” does not include a
7 government or governmental entity that is not
8 operating as a business enterprise.

9 (7) UNITED STATES PERSON.—The term
10 “United States person” means—

11 (A) a natural person who is a national of
12 the United States (as defined in section
13 101(a)(22) of the Immigration and Nationality
14 Act (8 U.S.C. 1101(a)(22))); or

15 (B) a corporation or other legal entity
16 which is organized under the laws of the United
17 States, any State or territory thereof, or the
18 District of Columbia, if natural persons de-
19 scribed in subparagraph (A) own, directly or in-
20 directly, more than 50 percent of the out-
21 standing capital stock or other beneficial inter-
22 est in such legal entity.

1 **SEC. 909. 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 shall submit to the Com-
19 mittee on Finance of the Senate and the Committee on
20 Ways and Means of the House of Representatives a report
21 on compliance with section 307 of the Tariff Act of 1930
22 (19 U.S.C. 1307) that includes the following:

23 (1) The number of instances in which merchan-
24 dise was denied entry pursuant to that section dur-
25 ing the 1-year period preceding the submission of
26 the report.

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

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

6 **SEC. 910. CUSTOMS USER FEES.**

7 (a) IN GENERAL.—Section 13031(j)(3) of the Con-
8 solidated Omnibus Budget Reconciliation Act of 1985 (19
9 U.S.C. 58c(j)(3)) is amended by adding at the end the
10 following:

11 “(C) Fees may be charged under paragraphs (9) and
12 (10) of subsection (a) during the period beginning on July
13 8, 2025, and ending on July 28, 2025.”.

14 (b) RATE FOR MERCHANDISE PROCESSING FEES.—
15 Section 503 of the United States–Korea Free Trade
16 Agreement Implementation Act (Public Law 112–41; 125
17 Stat. 460) is amended—

18 (1) by striking “For the period” and inserting
19 “(a) IN GENERAL.—For the period”; and

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

21 “(b) ADDITIONAL PERIOD.—For the period begin-
22 ning on July 1, 2025, and ending on July 14, 2025, sec-
23 tion 13031(a)(9) of the Consolidated Omnibus Budget
24 Reconciliation Act of 1985 (19 U.S.C. 58c(a)(9)) shall be
25 applied and administered—

1 “(1) in subparagraph (A), by substituting
2 ‘0.3464’ for ‘0.21’; and

3 “(2) in subparagraph (B)(i), by substituting
4 ‘0.3464’ for ‘0.21’.”.

5 **SEC. 911. REPORT ON CERTAIN U.S. CUSTOMS AND BORDER**
6 **PROTECTION AGREEMENTS.**

7 (a) **IN GENERAL.**—Not later than one year after en-
8 tering into an agreement under a program specified in
9 subsection (b), and annually thereafter until the termi-
10 nation of the program, the Commissioner shall submit to
11 the Committee on Finance of the Senate, the Committee
12 on Ways and Means of the House of Representatives, the
13 Committee on Homeland Security and Governmental Af-
14 fairs of the Senate, and the Committee on Homeland Se-
15 curity of the House of Representatives a report that in-
16 cludes the following:

17 (1) A description of the development of the pro-
18 gram.

19 (2) A description of the type of entity with
20 which U.S. Customs and Border Protection entered
21 into the agreement and the amount that entity reim-
22 bursed U.S. Customs and Border Protection under
23 the agreement.

24 (3) An identification of the type of port of entry
25 to which the agreement relates and an assessment of

1 how the agreement provides economic benefits at the
2 port of entry.

3 (4) A description of the services provided by
4 U.S. Customs and Border Protection under the
5 agreement during the year preceding the submission
6 of the report.

7 (5) The amount of fees collected under the
8 agreement during that year.

9 (6) A detailed accounting of how the fees col-
10 lected under the agreement have been spent during
11 that year.

12 (7) A summary of any complaints or criticism
13 received by U.S. Customs and Border Protection
14 during that year regarding the agreement.

15 (8) An assessment of the compliance of the en-
16 tity described in paragraph (2) with the terms of the
17 agreement.

18 (9) Recommendations with respect to how ac-
19 tivities conducted pursuant to the agreement could
20 function more effectively or better produce economic
21 benefits.

22 (10) A summary of the benefits to and chal-
23 lenges faced by U.S. Customs and Border Protection
24 and the entity described in paragraph (2) under the
25 agreement.

1 (b) PROGRAM SPECIFIED.—A program specified in
2 this subsection is—

3 (1) the program for entering into reimbursable
4 fee agreements for the provision of U.S. Customs
5 and Border Protection services established by section
6 560 of the Department of Homeland Security Ap-
7 propriations Act, 2013 (division D of Public Law
8 113–6; 127 Stat. 378); or

9 (2) the pilot program authorizing U.S. Customs
10 and Border Protection to enter into partnerships
11 with private sector and government entities at ports
12 of entry established by section 559 of the Depart-
13 ment of Homeland Security Appropriations Act,
14 2014 (division F of Public Law 113–76; 6 U.S.C.
15 211 note).

16 **SEC. 912. AMENDMENTS TO BIPARTISAN CONGRESSIONAL**
17 **TRADE PRIORITIES AND ACCOUNTABILITY**
18 **ACT OF 2015.**

19 (a) IMMIGRATION LAWS OF THE UNITED STATES.—
20 Section 102(a) of the Bipartisan Congressional Trade Pri-
21 orities and Accountability Act of 2015 is amended—

22 (1) in paragraph (12), by striking “and” at the
23 end;

24 (2) in paragraph (13), by striking the period at
25 the end and inserting “; and”; and

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

2 “(14) to ensure that trade agreements do not
3 require changes to the immigration laws of the
4 United States or obligate the United States to grant
5 access or expand access to visas issued under section
6 101(a)(15) of the Immigration and Nationality Act
7 (8 U.S.C. 1101(a)(15)).”.

8 (b) GLOBAL WARMING.—Section 102(a) of the Bi-
9 partisan Congressional Trade Priorities and Account-
10 ability Act of 2015, as amended by subsection (a) of this
11 section, is amended—

12 (1) in paragraph (13), by striking “and” at the
13 end;

14 (2) in paragraph (14), by striking the period at
15 the end and inserting “; and”; and

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

17 “(15) to ensure that trade agreements do not
18 require changes to U.S. law or obligate the United
19 States with respect to global warming or climate
20 change.”.

21 (c) FISHERIES NEGOTIATIONS.—Section 102(b) of
22 the Bipartisan Congressional Trade Priorities and Ac-
23 countability Act of 2015 is amended by adding at the end
24 the following:

1 “(22) FISHERIES NEGOTIATIONS.—The prin-
2 cipal negotiating objectives of the United States with
3 respect to trade in fish, seafood, and shellfish prod-
4 ucts are to obtain competitive opportunities for
5 United States exports of fish, seafood, and shellfish
6 products in foreign markets substantially equivalent
7 to the competitive opportunities afforded foreign ex-
8 ports of fish, seafood, and shellfish products in
9 United States markets and to achieve fairer and
10 more open conditions of trade in fish, seafood, and
11 shellfish products, including by reducing or elimi-
12 nating tariff and non-tariff barriers and eliminating
13 subsidies that distort trade.”.

14 (d) ACCREDITATION.—Section 104(c)(2)(C) of the
15 Bipartisan Congressional Trade Priorities and Account-
16 ability Act of 2015 is amended by inserting after the first
17 sentence the following: “In addition, the chairman and
18 ranking members described in subparagraphs (A)(i) and
19 (B)(i) shall each be permitted to designate up to 3 per-
20 sonnel with proper security clearances to serve as dele-
21 gates to such negotiations.”.

22 (e) TRAFFICKING IN PERSONS.—Section 106(b)(6) of
23 the Bipartisan Congressional Trade Priorities and Ac-
24 countability Act of 2015 is amended—

1 (1) by redesignating subparagraph (B) as sub-
2 paragraph (C); and

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

5 “(B) EXCEPTION.—

6 “(i) INVOKING EXCEPTION.—If the
7 President submits to the appropriate con-
8 gressional committees a letter stating that
9 a country to which subparagraph (A) ap-
10 plies has taken concrete actions to imple-
11 ment the principal recommendations with
12 respect to that country in the most recent
13 annual report on trafficking in persons,
14 this paragraph shall not apply with respect
15 to agreements with that country.

16 “(ii) CONTENT OF LETTER; PUBLIC
17 AVAILABILITY.—A letter submitted under
18 clause (i) with respect to a country shall—

19 “(I) include a description of the
20 concrete actions that the country has
21 taken to implement the principal rec-
22 ommendations described in clause (i);
23 and

24 “(II) be made available to the
25 public.

1 “(iii) APPROPRIATE CONGRESSIONAL
2 COMMITTEES DEFINED.—In this subpara-
3 graph, the term ‘appropriate congressional
4 committees’ means—

5 “(I) the Committee on Ways and
6 Means and the Committee on Foreign
7 Affairs of the House of Representa-
8 tives; and

9 “(II) the Committee on Finance
10 and the Committee on Foreign Rela-
11 tions of the Senate.”;

12 (f) TECHNICAL AMENDMENTS.—The Bipartisan
13 Congressional Trade Priorities and Accountability Act of
14 2015 is amended—

15 (1) in section 105(b)(3)—

16 (A) in subparagraph (A)(ii), by striking
17 “section 102(b)(16)” and inserting “section
18 102(b)(17)”;

19 (B) in subparagraph (B)(ii), by striking
20 “section 102(b)(16)” and inserting “section
21 102(b)(17)”;

22 (2) in section 106(b)(5), by striking “section
23 102(b)(15)(C)” and inserting “section
24 102(b)(16)(C)”.

1 (g) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect as if included in the enact-
3 ment of the Bipartisan Congressional Trade Priorities and
4 Accountability Act of 2015.

5 **SEC. 913. CERTAIN INTEREST TO BE INCLUDED IN DIS-**
6 **TRIBUTIONS UNDER CONTINUED DUMPING**
7 **AND SUBSIDY OFFSET ACT OF 2000.**

8 (a) IN GENERAL.—Notwithstanding any other provi-
9 sion of law, the Commissioner shall include in all distribu-
10 tions of collected antidumping and countervailing duties
11 described in subsection (b) all interest earned on such du-
12 ties, including—

13 (1) interest accrued under section 778 of the
14 Tariff Act of 1930 (19 U.S.C. 1677g),

15 (2) interest accrued under section 505(d) of the
16 Tariff Act of 1930 (19 U.S.C. 1505(d)), and

17 (3) common-law equitable interest, and all in-
18 terest under section 963 of the Revised Statutes of
19 the United States (19 U.S.C. 580), awarded by a
20 court against a surety's late payment of anti-
21 dumping or countervailing duties and interest de-
22 scribed in paragraph (1) or (2), under its bond,

23 which is, or was, realized through application of any pay-
24 ment received on or after October 1, 2014, by U.S. Cus-
25 toms and Border Protection under, or in connection with,

1 any customs bond pursuant to a court order or judgment,
2 or any settlement for any such bond.

3 (b) DISTRIBUTIONS DESCRIBED.—The distributions
4 described in subsection (a) are all distributions made on
5 or after the date of the enactment of this Act pursuant
6 to section 754 of the Tariff Act of 1930 (19 U.S.C. 1675c)
7 (as such section was in effect on February 7, 2006) of
8 collected antidumping and countervailing duties assessed
9 on or after October 1, 2000, on entries made through Sep-
10 tember 30, 2007.

11 **SEC. 914. REPORT ON COMPETITIVENESS OF U.S. REC-**
12 **REATIONAL PERFORMANCE OUTERWEAR IN-**
13 **DUSTRY.**

14 Not later than June 1, 2016, the United States Inter-
15 national Trade Commission shall submit to the Committee
16 on Finance of the Senate and the Committee on Ways and
17 Means of the House of Representatives a report on the
18 competitiveness of the United States recreational perform-
19 ance outwear industry and its effects on the United States
20 economy, including an assessment of duty structures on
21 inputs as well as finished products and global supply
22 chains.

1 **SEC. 915. INCREASE IN PENALTY FOR FAILURE TO FILE RE-**
2 **TURN OF TAX.**

3 (a) **IN GENERAL.**—Section 6651(a) of the Internal
4 Revenue Code of 1986 is amended by striking “\$135” in
5 the last sentence and inserting “\$205”.

6 (b) **CONFORMING AMENDMENT.**—Section 6651(i) of
7 such Code is amended by striking “\$135” and inserting
8 “\$205”.

9 (c) **EFFECTIVE DATE.**—The amendments made by
10 this section shall apply to returns required to be filed in
11 calendar years after 2015.



PART B—TEXT OF THE MODIFICATION TO THE HOUSE
AMENDMENT

**AMENDMENT TO THE AMENDMENT TO THE
SENATE AMENDMENT TO H.R. 644
OFFERED BY MR. RYAN OF WISCONSIN**

6

Strike title VII and insert the following:

1 **TITLE VII—CURRENCY**
2 **MANIPULATION**

3 **SEC. 701. ENHANCEMENT OF ENGAGEMENT ON CURRENCY**
4 **EXCHANGE RATE AND ECONOMIC POLICIES**
5 **WITH CERTAIN MAJOR TRADING PARTNERS**
6 **OF THE UNITED STATES.**

7 (a) MAJOR TRADING PARTNER REPORT.—

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

15 (2) ELEMENTS.—

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

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

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

3 (II) that country's current ac-
4 count balance as a percentage of its
5 gross domestic product;

6 (III) the change in that country's
7 current account balance as a percent-
8 age of its gross domestic product dur-
9 ing the 3-year period preceding the
10 submission of the report;

11 (IV) that country's foreign ex-
12 change reserves as a percentage of its
13 short-term debt; and

14 (V) that country's foreign ex-
15 change reserves as a percentage of its
16 gross domestic product; and

17 (ii) an enhanced analysis of macro-
18 economic and exchange rate policies for
19 each country that is a major trading part-
20 ner of the United States that has—

21 (I) a significant bilateral trade
22 surplus with the United States;

23 (II) a material current account
24 surplus; and

1 (III) engaged in persistent one-
2 sided intervention in the foreign ex-
3 change market.

4 (B) ENHANCED ANALYSIS.—Each en-
5 hanced analysis under subparagraph (A)(ii)
6 shall include, for each country with respect to
7 which an analysis is made under that subpara-
8 graph—

9 (i) a description of developments in
10 the currency markets of that country, in-
11 cluding, to the greatest extent feasible, de-
12 velopments with respect to currency inter-
13 ventions;

14 (ii) a description of trends in the real
15 effective exchange rate of the currency of
16 that country and in the degree of under-
17 valuation of that currency;

18 (iii) an analysis of changes in the cap-
19 ital controls and trade restrictions of that
20 country;

21 (iv) patterns in the reserve accumula-
22 tion of that country; and

23 (v) an analysis of the macroeconomic
24 policy mix of that country and its pattern
25 of savings-investment imbalances.

1 (3) GUIDANCE.—The Secretary shall publicly
2 issue guidance not later than 90 days after the date
3 of enactment of the Act that describes the factors
4 used to assess under paragraph (2)(A)(ii) whether a
5 country has a significant bilateral trade surplus with
6 the United States, has a material current account
7 surplus, and has engaged in persistent one-sided
8 intervention in the foreign exchange market.

9 (b) ENGAGEMENT ON EXCHANGE RATE AND ECO-
10 NOMIC POLICIES.—

11 (1) IN GENERAL.—The President, through the
12 Secretary, shall commence enhanced bilateral en-
13 gagement with each country for which an enhanced
14 analysis of macroeconomic and currency exchange
15 rate policies is included in the report submitted
16 under subsection (a), in order to, as appropriate—

17 (A) urge implementation of policies to ad-
18 dress the causes of the undervaluation of its
19 currency, its bilateral trade surplus with the
20 United States, and its material current account
21 surplus, including undervaluation and surpluses
22 relating to exchange rate management;

23 (B) express the concern of the United
24 States with respect to the adverse trade and

1 economic effects of that undervaluation and
2 those surpluses; and/or

3 (C) advise that country of the ability of the
4 President to take action under subsection (c).

5 (2) WAIVER.—

6 (A) IN GENERAL.—The Secretary may
7 waive the requirement under subsection (b)(1)
8 to commence enhanced bilateral engagement
9 with a country if the Secretary determines that
10 commencing enhanced bilateral engagement
11 with the country—

12 (i) would have an adverse impact on
13 the United States economy greater than
14 the benefits of such action; or

15 (ii) would cause serious harm to the
16 national security of the United States.

17 (B) CERTIFICATION.—The Secretary shall
18 promptly certify to Congress a determination
19 under subparagraph (A).

20 (c) REMEDIAL ACTION.—

21 (1) IN GENERAL.—If, on or after the date that
22 is one year after the commencement of enhanced bi-
23 lateral engagement by the President, through the
24 Secretary, with respect to a country under sub-
25 section (b)(1), the Secretary determines that the

1 country has failed to adopt appropriate policies to
2 correct the undervaluation and surpluses described
3 in subsection (b)(1)(A) with respect to that country,
4 the President shall take one or more of the following
5 actions:

6 (A) Prohibit the Overseas Private Invest-
7 ment Corporation from approving any new fi-
8 nancing (including any insurance, reinsurance,
9 or guarantee) with respect to a project located
10 in that country on and after such date.

11 (B) Except as provided in paragraph (2),
12 and pursuant to paragraph (3), prohibit the
13 Federal Government from procuring, or enter-
14 ing into any contract for the procurement of,
15 goods or services from that country on and
16 after such date.

17 (C) Instruct the United States Executive
18 Director of the International Monetary Fund to
19 call for additional rigorous surveillance of the
20 macroeconomic and exchange rate policies of
21 that country and, as appropriate, formal con-
22 sultations on findings of currency manipulation.

23 (D) Instruct the United States Trade Rep-
24 resentative to take into account, in consultation
25 with the Secretary, in assessing whether to

1 enter into a bilateral or regional trade agree-
2 ment with that country or to initiate or partici-
3 pate in negotiations with respect to a bilateral
4 or regional trade agreement with that country,
5 the extent to which that country has failed to
6 adopt appropriate policies to correct the under-
7 valuation and surpluses described in subsection
8 (b)(1)(A).

9 (2) WAIVER.—

10 (A) IN GENERAL.—The President may
11 waive the requirement under paragraph (1) to
12 take remedial action if the President determines
13 that taking remedial action under paragraph
14 (1) would—

15 (i) have an adverse impact on the
16 United States economy greater than the
17 benefits of taking remedial action; or

18 (ii) would cause serious harm to the
19 national security of the United States.

20 (B) CERTIFICATION.—The President shall
21 promptly certify to Congress a determination
22 under subparagraph (A).

23 (3) EXCEPTION.—The President may not apply
24 a prohibition under paragraph (1)(B) in a manner

1 that is inconsistent with United States obligations
2 under international agreements.

3 (4) CONSULTATIONS.—

4 (A) OFFICE OF MANAGEMENT AND BUDG-
5 ET.—Before applying a prohibition under para-
6 graph (1)(B), the President shall consult with
7 the Director of the Office of Management and
8 Budget to determine whether such prohibition
9 would subject the taxpayers of the United
10 States to unreasonable cost.

11 (B) CONGRESS.—The President shall con-
12 sult with the appropriate committees of Con-
13 gress with respect to any action the President
14 takes under paragraph (1)(B), including wheth-
15 er the President has consulted as required
16 under subparagraph (A).

17 (d) DEFINITIONS.—In this section:

18 (1) APPROPRIATE COMMITTEES OF CON-
19 GRESS.—The term “appropriate committees of Con-
20 gress” means—

21 (A) the Committee on Banking, Housing,
22 and Urban Affairs and the Committee on Fi-
23 nance of the Senate; and

1 (B) the Committee on Financial Services
2 and the Committee on Ways and Means of the
3 House of Representatives.

4 (2) COUNTRY.—The term “country” means a
5 foreign country, dependent territory, or possession of
6 a foreign country, and may include an association of
7 2 or more foreign countries, dependent territories, or
8 possessions of countries into a customs union out-
9 side the United States.

10 (3) REAL EFFECTIVE EXCHANGE RATE.—The
11 term “real effective exchange rate” means a weight-
12 ed average of bilateral exchange rates, expressed in
13 price-adjusted terms.

14 (4) SECRETARY.—The term “Secretary” means
15 the Secretary of the Treasury.

16 **SEC. 702. ADVISORY COMMITTEE ON INTERNATIONAL EX-**
17 **CHANGE RATE POLICY.**

18 (a) ESTABLISHMENT.—

19 (1) IN GENERAL.—There is established an Ad-
20 visory Committee on International Exchange Rate
21 Policy (in this section referred to as the “Com-
22 mittee”).

23 (2) DUTIES.—The Committee shall be respon-
24 sible for advising the Secretary of the Treasury with
25 respect to the impact of international exchange rates

1 and financial policies on the economy of the United
2 States.

3 (b) MEMBERSHIP.—

4 (1) IN GENERAL.—The Committee shall be
5 composed of 9 members as follows, none of whom
6 shall be employees of the Federal Government:

7 (A) Three members shall be appointed by
8 the President pro tempore of the Senate, upon
9 the recommendation of the chairmen and rank-
10 ing members of the Committee on Banking,
11 Housing, and Urban Affairs and the Committee
12 on Finance of the Senate.

13 (B) Three members shall be appointed by
14 the Speaker of the House of Representatives
15 upon the recommendation of the chairmen and
16 ranking members of the Committee on Finan-
17 cial Services and the Committee on Ways and
18 Means of the House of Representatives.

19 (C) Three members shall be appointed by
20 the President.

21 (2) QUALIFICATIONS.—Members shall be se-
22 lected under paragraph (1) on the basis of their ob-
23 jectivity and demonstrated expertise in finance, eco-
24 nomics, or currency exchange.

25 (3) TERMS.—

1 (A) IN GENERAL.—Members shall be ap-
2 pointed for a term of 2 years or until the Com-
3 mittee terminates.

4 (B) REAPPOINTMENT.—A member may be
5 reappointed to the Committee for additional
6 terms.

7 (4) VACANCIES.—Any vacancy in the Com-
8 mittee shall not affect its powers, but shall be filled
9 in the same manner as the original appointment.

10 (c) DURATION OF COMMITTEE.—

11 (1) IN GENERAL.—The Committee shall termi-
12 nate on the date that is 2 years after the date of the
13 enactment of this Act unless renewed by the Presi-
14 dent for a subsequent 2-year period.

15 (2) CONTINUED RENEWAL.—The President
16 may continue to renew the Committee for successive
17 2-year periods by taking appropriate action to renew
18 the Committee prior to the date on which the Com-
19 mittee would otherwise terminate.

20 (d) MEETINGS.—The Committee shall hold not less
21 than 2 meetings each calendar year.

22 (e) CHAIRPERSON.—

23 (1) IN GENERAL.—The Committee shall elect
24 from among its members a chairperson for a term
25 of 2 years or until the Committee terminates.

1 (2) REELECTION; SUBSEQUENT TERMS.—A
2 chairperson of the Committee may be reelected
3 chairperson but is ineligible to serve consecutive
4 terms as chairperson.

5 (f) STAFF.—The Secretary of the Treasury shall
6 make available to the Committee such staff, information,
7 personnel, administrative services, and assistance as the
8 Committee may reasonably require to carry out the activi-
9 ties of the Committee.

10 (g) APPLICATION OF THE FEDERAL ADVISORY COM-
11 MITTEE ACT.—

12 (1) IN GENERAL.—Except as provided in para-
13 graph (2), the provisions of the Federal Advisory
14 Committee Act (5 U.S.C. App.) shall apply to the
15 Committee.

16 (2) EXCEPTION.—Meetings of the Committee
17 shall be exempt from the requirements of sub-
18 sections (a) and (b) of section 10 and section 11 of
19 the Federal Advisory Committee Act (relating to
20 open meetings, public notice, public participation,
21 and public availability of documents), whenever and
22 to the extent it is determined by the President or the
23 Secretary of the Treasury that such meetings will be
24 concerned with matters the disclosure of which—

1 (A) would seriously compromise the devel-
2 opment by the Government of the United States
3 of monetary or financial policy; or

4 (B) is likely to—

5 (i) lead to significant financial
6 speculation in currencies, securities, or
7 commodities; or

8 (ii) significantly endanger the stability
9 of any financial institution.

10 (h) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to the Secretary of the
12 Treasury for each fiscal year in which the Committee is
13 in effect \$1,000,000 to carry out this section.

