

112TH CONGRESS
2D SESSION

H. R. 6642

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

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 7, 2012

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

A BILL

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

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

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

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

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

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

TITLE I—CUSTOMS FACILITATION

Subtitle A—Functions Other Than Investigative Functions

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

Subtitle B—Investigative Functions

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

Subtitle C—Joint Strategic Plan

- Sec. 131. Joint Strategic Plan.

TITLE II—CUSTOMS FACILITATION, TRADE ENFORCEMENT, AND
TRANSPARENCY

Subtitle A—Customs Facilitation and Transparency

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

Subtitle B—Trade Enforcement

CHAPTER 1—COMMERCIAL RISK ASSESSMENT TARGETING

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

CHAPTER 2—IMPORTER REQUIREMENTS

- Sec. 221. Importer of record program.
- Sec. 222. Customs broker identification of importers.
- Sec. 223. Establishment of “new importer” program.

- Sec. 224. Requirements applicable to non-resident importers.
 Sec. 225. Certified importer program.

CHAPTER 3—IMPORT-RELATED PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

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

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

- Sec. 301. Short title.
 Sec. 302. Definitions.
 Sec. 303. Application to Canada and Mexico.

Subtitle A—Actions Relating to Enforcement of Trade Remedy Laws

- Sec. 311. Trade Remedy Law Enforcement Division.
 Sec. 312. Collection of information on evasion of trade remedy laws.
 Sec. 313. Access to information.
 Sec. 314. Cooperation with foreign countries on preventing evasion of trade remedy laws.
 Sec. 315. Trade negotiating objectives.

Subtitle B—Other Matters

- Sec. 321. Allocation and training of personnel.
 Sec. 322. Annual report on prevention of evasion of antidumping and countervailing duty orders.
 Sec. 323. Addressing circumvention by new shippers.

TITLE IV—MISCELLANEOUS PROVISIONS

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

TITLE V—OTHER TRADE AGENCIES

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

1 SEC. 2. DEFINITIONS.

2 In this Act:

3 (1) COMMERCIAL CUSTOMS OPERATIONS ADVI-
4 SORY COMMITTEE.—The term “Commercial Customs
5 Operations Advisory Committee” means the Advi-

1 sory Committee established pursuant to section 202
2 of this Act or any successor committee.

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

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

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

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

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

1 (i) representing the Department of
2 Homeland Security in interagency fora ad-
3 dressing such efforts; and

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

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

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

20 (G) soliciting and considering on a regular
21 basis input from the private sector, including
22 the Commercial Customs Operations Advisory
23 Committee, the Trade Support Network, and
24 other entities affected by the efforts of the Fed-
25 eral Government to facilitate legitimate inter-

1 national trade and to enforce the customs and
2 trade laws of the United States, with respect
3 to—

4 (i) the implementation of new or
5 amended customs and trade laws of the
6 United States; and

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

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

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

19 (A) The Tariff Act of 1930.

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

22 (C) Section 2 of the Act of March 4, 1923
23 (19 U.S.C. 6).

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

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

6 (F) Section 1 of the Act of June 26, 1930
7 (19 U.S.C. 68).

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

10 (H) Section 1 of the Act of March 2, 1911
11 (19 U.S.C. 198).

12 (I) The Trade Act of 1974.

13 (J) The Trade Agreements Act of 1979.

14 (K) The North American Free Trade Area
15 Implementation Act.

16 (L) The Uruguay Round Agreements Act.

17 (M) The Caribbean Basin Economic Re-
18 covery Act.

19 (N) The Andean Trade Preference Act.

20 (O) The African Growth and Opportunity
21 Act.

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

24 (Q) The Customs Enforcement Act of
25 1986 (Public Law 99–570; 100 Stat. 3207–79).

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

3 (S) The Customs Procedural Reform and
4 Simplification Act of 1978 (Public Law 95–
5 410; 92 Stat. 888).

6 (T) The Trade Act of 2002 (Public Law
7 107–210; 116 Stat. 933).

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

10 (V) The Act of August 7, 1939 (53 Stat.
11 1263, chapter 566; 19 U.S.C. 2077 et seq.).

12 (W) Any other provision of law vesting
13 customs revenue functions in the Secretary of
14 the Treasury.

15 (X) Any other provision of law relating to
16 customs facilitation or trade enforcement that
17 is administered by the U.S. Customs and Bor-
18 der Protection Agency on behalf of any Federal
19 agency that is required to participate in the
20 International Trade Data System established
21 pursuant to section 411(d) of the Tariff Act of
22 1930 (19 U.S.C. 1411(d)), as amended by sec-
23 tion 204 of this Act.

1 (Y) Any other provision of customs or
2 trade law administered by the U.S. Customs
3 and Border Protection Agency.

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

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

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

14 (A) an individual who is not a citizen of
15 the United States or an alien lawfully admitted
16 for permanent residence in the United States;
17 or

18 (B) a partnership, corporation, or other
19 commercial entity that is not organized under
20 the laws of a jurisdiction within the customs
21 territory of the United States (as such term is
22 defined in General Note 2 of the Harmonized
23 Tariff Schedule of the United States) or in the
24 Virgin Islands of the United States.

1 (7) JOINT STRATEGIC PLAN.—The term “Joint
2 Strategic Plan” means the plan required by section
3 131 of this Act.

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

9 **TITLE I—CUSTOMS**
10 **FACILITATION**
11 **Subtitle A—Functions Other Than**
12 **Investigative Functions**

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

14 (a) IN GENERAL.—The first section of the Act of
15 March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C.
16 2071), is amended to read as follows:

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

19 “(a) ESTABLISHMENT OF U.S. CUSTOMS AND BOR-
20 DER PROTECTION AGENCY.—There is established in the
21 Department of Homeland Security the U.S. Customs and
22 Border Protection Agency.

23 “(b) ESTABLISHMENT OF COMMISSIONER OF U.S.
24 CUSTOMS AND BORDER PROTECTION.—The head of the
25 U.S. Customs and Border Protection Agency shall be a

1 Commissioner of U.S. Customs and Border Protection (in
2 this Act referred to as the ‘Commissioner’), who shall—

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

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

7 “(3) report directly to the Secretary of Home-
8 land Security.

9 “(c) DUTIES.—

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

11 “(A) carry out the duties and powers pre-
12 scribed by law or by the Secretary of Homeland
13 Security;

14 “(B) direct the administration of the com-
15 mercial operations of the U.S. Customs and
16 Border Protection Agency and the enforcement
17 of the customs and trade laws of the United
18 States; and

19 “(C) otherwise safeguard the economic and
20 homeland security interests of the United
21 States at land borders and ports of entry.

22 “(2) DEFINITIONS.—In this subsection, the
23 terms ‘commercial operations’ and ‘customs and
24 trade laws of the United States’ have the meanings

1 given such terms in section 2 of the Customs Trade
2 Facilitation and Enforcement Act of 2012.

3 “(d) ABSENCE OR DISABILITY OF COMMISSIONER.—
4 The Deputy Commissioner of U.S. Customs and Border
5 Protection, appointed pursuant to section 2, shall act as
6 Commissioner of U.S. Customs and Border Protection
7 during the absence or disability of the Commissioner of
8 U.S. Customs and Border Protection, or in the event that
9 there is no Commissioner of U.S. Customs and Border
10 Protection.”.

11 (b) ADMINISTRATIVE CONTINUITY.—

12 (1) IN GENERAL.—The Act of March 3, 1927
13 (44 Stat. 1381, chapter 348; 19 U.S.C. 2073), is
14 amended by striking section 3 and inserting the fol-
15 lowing:

16 **“SEC. 3. TRANSFER OF FUNCTIONS, ASSETS, LIABILITIES,
17 AND DUTIES.**

18 “(a) IN GENERAL.—Effective on the date of the en-
19 actment of the Customs Trade Facilitation and Enforce-
20 ment Act of 2012, the functions and associated personnel,
21 assets, and liabilities, identified under section 411 of the
22 Homeland Security Act of 2002 (6 U.S.C. 211) on the
23 day before such date of enactment, are transferred to the
24 U.S. Customs and Border Protection Agency.

1 “(b) CONTINUATION IN OFFICE.—The individual
2 serving as Commissioner of Customs, in the Department
3 of Homeland Security, on the day before the date of the
4 enactment of the Customs Trade Facilitation and En-
5 forcement Act of 2012 may serve as the Commissioner of
6 the U.S. Customs and Border Protection Agency until the
7 earlier of—

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

11 “(2) the date on which a person nominated by
12 the President to be the Commissioner of U.S. Cus-
13 toms and Border Protection is confirmed by the
14 Senate.”.

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

19 (c) REFERENCE.—On and after the effective date of
20 this Act, any reference in law or regulations to the “Com-
21 missioner of Customs” or the “Commissioner of the Cus-
22 toms Service” shall be deemed to be a reference to the
23 Commissioner of U.S. Customs and Border Protection es-
24 tablished pursuant to section 1 of the Act of March 3,
25 1927, as amended by subsection (a) of this section.

1 (d) COMPENSATION.—Section 5314 of title 5, United
2 States Code, is amended by striking “Commissioner of
3 Customs, Department of Homeland Security” and insert-
4 ing “Commissioner of U.S. Customs and Border Protec-
5 tion, Department of Homeland Security”.

6 **SEC. 102. OFFICERS AND EMPLOYEES.**

7 (a) DEPUTY COMMISSIONER.—Section 2 of the Act
8 of March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C.
9 2072), is amended by striking subsection (a) and inserting
10 the following:

11 “(a) DEPUTY COMMISSIONER.—

12 “(1) IN GENERAL.—There shall be in the U.S.
13 Customs and Border Protection Agency established
14 by the first section, 1 Deputy Commissioner who
15 shall be appointed by the President, by and with the
16 advice and consent of the Senate.

17 “(2) QUALIFICATIONS.—A person appointed to
18 be the Deputy Commissioner of U.S. Customs and
19 Border Protection shall have a minimum of 10 years
20 of professional experience in the operation of the
21 customs and trade laws of the United States.

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

24 “(A) overseeing the commercial operations
25 of the U.S. Customs and Border Protection

1 Agency, including the operations of the Office
2 of International Trade and all other offices of
3 the Agency whose duties primarily relate to the
4 commercial operations of the Agency;

5 “(B) resolving issues relating to the com-
6 mercial operations of the U.S. Customs and
7 Border Protection Agency, including liaising be-
8 tween offices primarily charged with carrying
9 out the commercial operations of the Agency
10 and any operational or port level office, includ-
11 ing the Office of Field Operations or any suc-
12 cessor office, in the administration of duties re-
13 lating to the commercial operations of the
14 Agency;

15 “(C) overseeing the development and im-
16 plementation information technology, research,
17 and communication functions of the U.S. Bor-
18 der and Protection Agency that affect the com-
19 mercial operations of the Agency, including
20 modernization strategies, that support the com-
21 mercial operations of the Agency, including the
22 implementation of the Automated Commercial
23 Environment computer system authorized under
24 section 13031(f)(5) of the Consolidated Omni-

1 bus Budget and Reconciliation Act of 1985 (19
2 U.S.C. 58c(f)(5));

3 “(D) overseeing the customs revenue func-
4 tions of the U.S. Customs and Border Protec-
5 tion Agency in consultation, as appropriate,
6 with the Deputy Assistant Secretary for Tax,
7 Trade, and Tariff Policy of the Department of
8 the Treasury or any successor position;

9 “(E) overseeing the administration of cus-
10 toms revenue functions of the U.S. Customs
11 and Border Protection Agency; and

12 “(F) consulting with the Committee on Fi-
13 nance of the Senate and the Committee on
14 Ways and Means of the House of Representa-
15 tives on a regular and timely basis regarding
16 the administration of the commercial operations
17 of the U.S. Customs and Border Protection
18 Agency, including—

19 “(i) the status and substance of inter-
20 national negotiations relating to the cus-
21 toms and trade laws of the United States,
22 or of foreign countries, in which personnel
23 of the Agency are participating;

1 “(ii) the resource needs of the Agency
2 in relation to the commercial operations of
3 the Agency;

4 “(iii) any proposed changes to policy,
5 regulations, interpretations, or practices
6 that relate to commercial operations;

7 “(iv) any legislative proposals that the
8 Agency or the Department of Homeland
9 Security provides to other committees of
10 the Senate or the House of Representatives
11 or individual members of such committees
12 that relate to the commercial operations of
13 the Agency; and

14 “(v) the implementation of new or
15 amended customs and trade laws of the
16 United States.

17 “(4) ABSENCE OR DISABILITY OF DEPUTY COM-
18 MISSIONER.—The Assistant Commissioner of the Of-
19 fice of International Trade shall act as the Deputy
20 Commissioner during the disability of the Deputy
21 Commissioner, or in the event that there is no Dep-
22 uty Commissioner.”.

23 (b) TRADE ADVOCATE.—Section 2 of the Act of
24 March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C.
25 2072), as amended by subsection (a) of this section, is

1 further amended by striking subsection (b) and inserting
2 the following:

3 “(b) TRADE ADVOCATE.—

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

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

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

13 “(A) serve as the primary liaison between
14 the U.S. Customs and Border Protection Agen-
15 cy and the public with respect to the Agency’s
16 administration of customs facilitation and trade
17 enforcement functions;

18 “(B) assist the Commissioner in resolving
19 issues relating to the commercial operations of
20 the Agency by effectively communicating the
21 perspectives held by interested parties in the
22 private sector and other private commercial in-
23 terests;

24 “(C) consult with interested parties in the
25 private sector, the Commercial Customs Oper-

1 ations Advisory Committee, and the Trade Sup-
2 port Network, for their input with respect to
3 the Agency’s—

4 “(i) development and implementation
5 of rules, regulations, decisions, and notices
6 related to the customs and trade laws of
7 the United States administered by the
8 Agency;

9 “(ii) development of the Joint Stra-
10 tegic Plan required under section 131 of
11 the Customs Trade Facilitation and En-
12 forcement Act of 2012;

13 “(iii) assessment of the effectiveness
14 of customs facilitation and trade enforce-
15 ment efforts; and

16 “(iv) trade modernization activities,
17 including the development and implementa-
18 tion of the Automated Commercial Envi-
19 ronment computer system authorized
20 under section 13031(f)(5) of the Consoli-
21 dated Omnibus Budget and Reconciliation
22 Act of 1985 (19 U.S.C. 58c(f)(5)) and
23 support for the establishment of the Inter-
24 national Trade Data System under the
25 oversight of the Department of the Treas-

1 ury pursuant to section 411(d) of the Tar-
2 iff Act of 1930 (19 U.S.C. 1411(d));

3 “(D) advise the Commissioner with respect
4 to the consultations described in subparagraph
5 (C); and

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

8 (c) OTHER OFFICERS.—Section 2 of the Act of
9 March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C.
10 2072), as amended by subsections (a) and (b) of this sec-
11 tion, is further amended by striking subsection (c) and in-
12 serting the following:

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

22 (d) OFFICE OF INTERNATIONAL TRADE.—Section
23 2(d) of the Act of March 3, 1927 (44 Stat. 1381, chapter
24 348; 19 U.S.C. 2072(d)), is amended—

1 (1) in paragraph (1), by striking “United
2 States Customs and Border Protection” and insert-
3 ing “U.S. Customs and Border Protection Agency”;
4 and

5 (2) in paragraph (2)—

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

8 (B) by striking subparagraph (A) and in-
9 serting the following:

10 “(A) OFFICE OF FIELD OPERATIONS.—

11 “(i) TRANSFER.—

12 “(I) IN GENERAL.—Not later
13 than 90 days after the date of enact-
14 ment of the Customs Trade Enforce-
15 ment and Facilitation Act of 2012,
16 the Commissioner shall transfer to the
17 Office of International Trade estab-
18 lished pursuant to paragraph (1) the
19 assets, functions (other than adminis-
20 trative functions), and personnel de-
21 scribed in subclause (II) of the Office
22 of Field Operations.

23 “(II) PERSONNEL DESCRIBED.—

24 The personnel of the Office of Field

1 Operations referred to in subclause (I)
2 are the following:

3 “(aa) Personnel having the
4 statutory authority to classify
5 and appraise goods entering the
6 United States.

7 “(bb) Personnel having the
8 responsibility to act as principal
9 point of contact and technical ex-
10 perts with respect to goods enter-
11 ing the United States, including
12 responsibilities relating to collec-
13 tion and deposit of duties, taxes,
14 and fees.

15 “(cc) Such other personnel
16 as the Commissioner determines
17 to be necessary.

18 “(ii) ASSISTANT COMMISSIONER IN
19 THE OFFICE OF INTERNATIONAL TRADE.—
20 The assets, functions, and personnel trans-
21 ferred to the Office of International Trade
22 pursuant to clause (i) shall be under the
23 authority of the Assistant Commissioner in
24 the Office of International Trade.

1 “(iii) TRAINING.—Not later than 18
2 months after the date of the enactment of
3 the Customs Trade Enforcement and Fa-
4 cilitation Act of 2012, the Commissioner
5 shall ensure that sufficient training with
6 respect to facilitating legitimate inter-
7 national trade and enforcing the customs
8 and trade laws of the United States has
9 been provided to personnel transferred to
10 the Office of International Trade pursuant
11 to clause (i).

12 “(iv) LIMITATION ON FUNDS.—No
13 funds appropriated to the U.S. Customs
14 and Border Protection Agency may be
15 used to transfer the assets, functions, or
16 personnel of the Office of Field Operations
17 to an office other than the Office of Inter-
18 national Trade.”.

19 (C) by striking subparagraph (B);

20 (D) by redesignating subparagraphs (C)
21 through (F) as subparagraphs (B) through (E),
22 respectively;

23 (E) in subparagraph (B), as redesignated
24 by subparagraph (D) of this paragraph, by
25 striking “United States Customs and Border

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

3 (F) in subparagraph (E), as redesignated
4 by subparagraph (D) of this paragraph—

5 (i) by striking “United States Cus-
6 toms and Border Protection” and inserting
7 “U.S. Customs and Border Protection
8 Agency”; and

9 (ii) by striking “subparagraph
10 (E)(ii)” and inserting “subparagraph
11 (D)(ii)”.

12 (e) DEFINITIONS.—Section 2(f) of the Act of March
13 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 2072)
14 is amended to read as follows:

15 “(f) DEFINITIONS.—In this section—

16 “(1) the term ‘Commissioner’ means the Com-
17 missioner of U.S. Customs and Border Protection;
18 and

19 “(2) the terms ‘Commercial Customs Oper-
20 ations Advisory Committee’, ‘commercial operations’,
21 ‘customs and trade laws of the United States’, and
22 ‘Trade Support Network’ have the meaning given
23 such terms in section 2 of the Customs Trade Facili-
24 tation and Enforcement Act of 2012.”.

1 (f) ESTABLISHMENT OF INTERAGENCY CUSTOMS RE-
2 VIEW BOARD.—The Act of March 3, 1927 (44 Stat. 1381,
3 chapter 348; 19 U.S.C. 2071 et seq.), is amended by in-
4 serting after section 3 the following:

5 **“SEC. 4. ESTABLISHMENT OF INTERAGENCY CUSTOMS RE-**
6 **VIEW BOARD.**

7 “(a) ESTABLISHMENT.—There is established an
8 interagency Customs Review Board.

9 “(b) MEMBERSHIP.—The interagency Customs Re-
10 view Board shall be comprised of the Commissioner, the
11 Assistant Secretary for Policy in the Department of
12 Homeland Security, the Assistant Secretary for Tax Pol-
13 icy in the Department of the Treasury, the Under Sec-
14 retary for International Trade in the Department of Com-
15 merce, and 1 Deputy United States Trade Representative
16 designated by the United States Trade Representative to
17 serve on the interagency Customs Review Board. The
18 interagency Customs Review Board shall be co-chaired by
19 the Commissioner and the Assistant Secretary for Tax
20 Policy in the Department of the Treasury.

21 “(c) REFERRAL.—The Commissioner of U.S. Cus-
22 toms and Border Protection shall notify and provide full
23 documentation to the interagency Customs Review Board
24 not less than 30 days prior to publically proposing any
25 change to a regulation, interpretation, or practice of the

1 Agency relating to commercial operations of the Agency
2 that could reasonably be expected to affect compliance by
3 the United States Government with its international trade
4 obligations.

5 “(d) DUTIES.—The interagency Customs Review
6 Board shall—

7 “(1) review any proposed change to a regula-
8 tion, interpretation, or practice of the Agency re-
9 ferred to the interagency Customs Review Board by
10 the Commissioner under subsection (c) to determine
11 if the change conforms to the international trade ob-
12 ligations of the United States; and

13 “(2) advise the Commissioner of U.S. Customs
14 and Border Protection, not later than 30 days after
15 receiving notification of a proposed change under
16 paragraph (1), as to whether or not and the extent
17 to which the change conforms to the international
18 trade obligations of the United States and other
19 cross-border initiatives.

20 “(e) DEFINITION.—In this section, the term ‘com-
21 mercial operations’ has the meaning given the term in sec-
22 tion 2 of the Customs Trade Facilitation and Enforcement
23 Act of 2012.”.

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

4 “Deputy Commissioner of U.S. Customs and
5 Border Protection, Department of Homeland Secu-
6 rity.”.

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

9 (a) IN GENERAL.—The President shall include in
10 each budget transmitted to Congress under section 1105
11 of title 31, United States Code, a separate budget request
12 for the commercial operations of the U.S. Customs and
13 Border Protection Agency.

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

17 **SEC. 104. REVOLVING FUND.**

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

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

2 The matter under the heading “BUREAU OF CUS-
3 TOMS” in title I of the Treasury Department Appropria-
4 tion Act 1940 (53 Stat. 660, chapter 115; 19 U.S.C.
5 2076), is amended in the last proviso by striking “Bureau
6 of Customs” and inserting “U.S. Customs and Border
7 Protection Agency or U.S. Immigration and Customs En-
8 forcement”.

9 **SEC. 106. ADVANCES FOR ENFORCEMENT OF CUSTOMS**
10 **PROVISIONS.**

11 Section 2 of the Act entitled “An Act to provide for
12 advances of funds by special disbursing agents in connec-
13 tion with the enforcement of Acts relating to narcotic
14 drugs”, approved March 28, 1928 (19 U.S.C. 2077), is
15 amended to read as follows:

16 **“SEC. 2. ADVANCES FOR ENFORCEMENT OF CUSTOMS PRO-**
17 **VISIONS.**

18 “The Commissioner of U.S. Customs and Border
19 Protection and the Director of U.S. Immigration and Cus-
20 toms Enforcement, with the approval of the Secretary of
21 Homeland Security and the Secretary of the Treasury, are
22 each authorized to direct the advance of funds by the Fis-
23 cal Service in the Department of the Treasury, in connec-
24 tion with the enforcement of the customs and trade laws
25 of the United States (as defined in section 2 of the Cus-
26 toms Trade Facilitation and Enforcement Act of 2012).”.

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

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

7 **SEC. 108. PAYMENTS IN FOREIGN COUNTRIES; CLAIMS FOR**
8 **REIMBURSEMENT.**

9 Section 4 of the Act of August 7, 1939 (53 Stat.
10 1263, chapter 566; 19 U.S.C. 2079), is amended to read
11 as follows:

12 **“SEC. 4. PAYMENTS IN FOREIGN COUNTRIES; CLAIMS FOR**
13 **REIMBURSEMENT.**

14 “The provisions of this Act shall not affect payments
15 made for the U.S. Customs and Border Protection Agency
16 or U.S. Immigration and Customs Enforcement in foreign
17 countries, or the right of any officer or employee of such
18 Agencies to claim reimbursement for personal funds ex-
19 pended in connection with the enforcement of the customs
20 and trade laws of the United States (as defined in section
21 2 of the Customs Trade Facilitation and Enforcement Act
22 of 2012).”.

23 **SEC. 109. CUSTOMS ADMINISTRATION.**

24 Section 113 of the Customs and Trade Act of 1990
25 (19 U.S.C. 2082) is amended to read as follows:

1 **“SEC. 113. CUSTOMS ADMINISTRATION.**

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

5 “(1) develop and implement accounting systems
6 that accurately determine and report the allocation
7 of the personnel and other resources of the U.S.
8 Customs and Border Protection Agency and U.S.
9 Immigration and Customs Enforcement among the
10 various operational functions of each Agency, includ-
11 ing merchandise processing and customs and trade
12 law enforcement; and

13 “(2) for fiscal year 2013 and each subsequent
14 fiscal year, develop and implement labor distribution
15 surveys of major workforce activities within the U.S.
16 Customs and Border Protection Agency and U.S.
17 Immigration and Customs Enforcement to determine
18 the cost of the various operational functions of each
19 Agency and the extent to which the costs of one
20 Agency are covered by the other Agency.

21 “(b) SURVEY REPORTS.—The Commissioner of U.S.
22 Customs and Border Protection and the Director of U.S.
23 Immigration and Customs Enforcement shall each, not
24 later than December 31, 2013, and December 31 of each
25 subsequent calendar year, submit to the Committee on Fi-
26 nance of the Senate and the Committee on Ways and

1 Means of the House of Representatives a report on the
2 results of the surveys implemented under paragraph (2)
3 of subsection (a) for the preceding fiscal year.”.

4 **SEC. 110. DESIGNATION OF TRADE OVERSIGHT PER-**
5 **SONNEL.**

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

9 “(c) DESIGNATION OF TRADE OVERSIGHT PER-
10 SONNEL.—Not later than 90 days after the date of the
11 enactment of the Customs Trade Facilitation and En-
12 forcement Act of 2012, the Secretary of the Treasury shall
13 designate and dedicate not less than 5 full-time equivalent
14 personnel to work exclusively with the Deputy Assistant
15 Secretary of the Treasury for Tax, Trade, and Tariff Pol-
16 icy in the performance and oversight of customs revenue
17 functions.”.

18 **SEC. 111. CONSULTATION ON TRADE AND CUSTOMS REV-**
19 **ENUE FUNCTIONS.**

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

22 (1) in paragraph (1), by striking “on Depart-
23 ment policies and actions that have” and inserting
24 “not later than 30 days after proposing, and not

1 later than 30 days before finalizing, any Department
2 policies, initiatives, or actions that will have”; and

3 (2) in paragraph (2)(A), by striking “not later
4 than 30 days prior to the finalization of” and insert-
5 ing “not later than 60 days before proposing, and
6 not later than 60 days before finalizing,”.

7 **SEC. 112. AUTHORIZATION OF APPROPRIATIONS.**

8 (a) IN GENERAL.—Section 301 of the Customs Pro-
9 cedural Reform and Simplification Act of 1978 (19 U.S.C.
10 2075) is amended—

11 (1) in subsection (a)—

12 (A) in paragraph (1)—

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

15 (ii) by striking “Department of the
16 Treasury for the United States Customs
17 Service” and inserting “Department of
18 Homeland Security for the U.S. Customs
19 and Border Protection Agency”;

20 (B) by striking paragraph (2) and insert-
21 ing the following:

22 “(2) REQUIREMENT FOR AUTHORIZATION.—
23 The authorization of the appropriations for the U.S.
24 Customs and Border Protection Agency for each fis-
25 cal year after fiscal year 2012 shall specify the

1 amount authorized for the fiscal year for the salaries
2 and expenses of the Agency in conducting commer-
3 cial operations.”; and

4 (C) by striking paragraph (3);

5 (2) by striking subsections (b), (c), and (d) and
6 inserting the following:

7 “(b) AUTHORIZATION OF APPROPRIATIONS.—

8 “(1) IN GENERAL.—There are authorized to be
9 appropriated for the salaries and expenses of the
10 U.S. Customs and Border Protection Agency that
11 are incurred in commercial operations—

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

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

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

18 “(2) CUSTOMS USER FEE ACCOUNT.—The mon-
19 ies authorized to be appropriated pursuant to para-
20 graph (1) for any fiscal year, except for such sums
21 as may be necessary for the salaries and expenses of
22 the U.S. Customs and Border Protection Agency
23 that are incurred in connection with the processing
24 of merchandise that is exempt from the fees imposed
25 pursuant to section 13031(a) (9) and (10) of the

1 Consolidated Omnibus Budget Reconciliation Act of
2 1985 (19 U.S.C. 58c(a) (9) and (10)), shall be ap-
3 propriated from the Customs User Fee Account.

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

9 “(d) OVERTIME PAY LIMITATIONS; WAIVER.—No
10 part of the funds appropriated pursuant to subsection (a)
11 for any fiscal year may be used for administrative ex-
12 penses to pay any customs officer overtime pay in an
13 amount exceeding \$35,000 unless the Secretary of Home-
14 land Security determines on an individual basis that pay-
15 ment of overtime pay to such officer in an amount exceed-
16 ing \$35,000 is necessary for national security purposes,
17 to prevent excessive costs, or to meet emergency require-
18 ments of the Agency.”;

19 (3) in subsection (e)—

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

22 (B) by striking “Department of the Treas-
23 ury for salaries of the United States Customs
24 Service” and inserting “Department of Home-

1 land Security for salaries of the U.S. Customs
2 and Border Protection Agency”; and

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

8 (4) by striking subsections (f) and (g) and in-
9 serting the following:

10 “(f) USE OF SAVINGS RESULTING FROM ADMINIS-
11 TRATIVE CONSOLIDATIONS.—If savings in salaries and ex-
12 penses result from the consolidation of administrative
13 functions within the U.S. Customs and Border Protection
14 Agency, the Commissioner of U.S. Customs and Border
15 Protection shall apply the savings, to the extent the sav-
16 ings are not needed to meet emergency requirements of
17 the Agency, to strengthening the commercial operations
18 of the Agency by increasing the number of personnel dedi-
19 cated to administering such commercial operations.

20 “(g) ALLOCATION OF RESOURCES; REPORT TO CON-
21 GRESSIONAL COMMITTEES.—The Commissioner of U.S.
22 Customs and Border Protection shall notify the Com-
23 mittee on Finance of the Senate and the Committee on
24 Ways and Means of the House of Representatives at least
25 180 days prior to taking any action that would—

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

4 “(2) result in any significant reduction in hours
5 of operation or services rendered at any office of the
6 U.S. Customs and Border Protection Agency or any
7 United States port of entry;

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

10 “(4) eliminate any United States port of entry;
11 or

12 “(5) significantly reduce the number of employ-
13 ees assigned to any office or any function of the
14 U.S. Customs and Border Protection Agency.”; and

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

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

20 (b) RESOURCE OPTIMIZATION MODEL.—Subsection
21 (h) of section 301 of the Customs Procedural Reform and
22 Simplification Act of 1978 is amended by striking “Re-
23 source Allocation Model” each place it appears in the text
24 and in the heading and inserting “Resource Optimization
25 Model”.

1 (c) CONFORMING AMENDMENT.—Subsection (c) of
2 section 5 of the Act of February 13, 1911 (19 U.S.C.
3 267(c)), is amended to read as follows:

4 “(c) LIMITATIONS.—

5 “(1) FISCAL YEAR CAP.—The aggregate of
6 overtime pay under subsection (a) of this section (in-
7 cluding commuting compensation under subsection
8 (a)(2)(B) of this section) and premium pay under
9 subsection (b) of this section that a customs officer
10 may be paid in any fiscal year may not exceed
11 \$35,000 unless the Secretary of Homeland Security
12 determines on an individual basis that payment of
13 overtime pay to such officer in an amount exceeding
14 \$35,000 is necessary for national security purposes,
15 to prevent excessive costs, or to meet emergency re-
16 quirements of the Agency.

17 “(2) EXCLUSIVITY OF PAY UNDER THIS SEC-
18 TION.—A customs officer who receives overtime pay
19 under subsection (a) of this section, or premium pay
20 under subsection (b) of this section for time worked,
21 may not receive pay or other compensation for that
22 work under any other provision of law.”.

1 **Subtitle B—Investigative Functions**

2 **SEC. 121. SEPARATE BUDGET FOR U.S. IMMIGRATION AND** 3 **CUSTOMS ENFORCEMENT.**

4 The President shall include in each budget trans-
5 mitted to Congress under section 1105 of title 31, United
6 States Code, a separate budget request of U.S. Immigra-
7 tion and Customs Enforcement for the enforcement of the
8 customs and trade laws of the United States.

9 **SEC. 122. AUTHORIZATION OF APPROPRIATIONS.**

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

13 **“SEC. 302. AUTHORIZATION OF APPROPRIATIONS FOR CER-** 14 **TAIN CUSTOMS ENFORCEMENT ACTIVITIES.**

15 “(a) IN GENERAL.—

16 “(1) FISCAL YEARS BEGINNING ON OR AFTER
17 OCTOBER 1, 2012.—For the fiscal year beginning Oc-
18 tober 1, 2012, and each fiscal year thereafter, there
19 are authorized to be appropriated to the U.S. Immi-
20 gration and Customs Enforcement of the Depart-
21 ment of Homeland Security for the enforcement of
22 the customs and trade laws of the United States
23 only such sums as may be authorized by law.

24 “(2) SPECIFICATION OF AMOUNTS.—The au-
25 thorization of the appropriations for the U.S. Immi-

1 gration and Customs Enforcement for each fiscal
2 year after fiscal year 2012 shall specify the amount
3 authorized for the fiscal year for the salaries and ex-
4 penses of U.S. Immigration and Customs Enforce-
5 ment for the enforcement of the customs and trade
6 laws of the United States.

7 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated for the salaries and ex-
9 penses of the U.S. Immigration and Customs Enforcement
10 that are incurred in enforcement of the customs and trade
11 laws of the United States—

12 “(1) not less than \$86,000,000 for fiscal year
13 2013;

14 “(2) not less than \$88,150,000 for fiscal year
15 2014; and

16 “(3) not less than \$90,200,000 for fiscal year
17 2015.

18 “(c) DEFINITION.—In this section, the term ‘customs
19 and trade laws of the United States’ has the meaning
20 given such term in section 2 of the Customs Trade Facili-
21 tation and Enforcement Act of 2012.”.

22 **Subtitle C—Joint Strategic Plan**

23 **SEC. 131. JOINT STRATEGIC PLAN.**

24 (a) IN GENERAL.—Not later than June 30, 2013,
25 and every 2 years thereafter, the Commissioner of U.S.

1 Customs and Border Protection and the Director of U.S.
2 Immigration and Customs Enforcement shall jointly de-
3 velop and submit to the Committee on Finance of the Sen-
4 ate and the Committee on Ways and Means of the House
5 of Representatives, a Joint Strategic Plan.

6 (b) CONTENTS.—The Joint Strategic Plan required
7 under this section shall be comprised of a comprehensive
8 multi-year plan for enforcing the customs and trade laws
9 of the United States and for facilitating the international
10 trade of the United States, and shall include—

11 (1) a summary of actions taken to date to bet-
12 ter enforce the customs and trade laws of the United
13 States and to better facilitate the international trade
14 of the United States, including a description and
15 analysis of specific performance measures to evalu-
16 ate the progress of the U.S. Customs and Border
17 Protection Agency and U.S. Immigration and Cus-
18 toms Enforcement in meeting each such responsi-
19 bility;

20 (2) a statement of objectives and plans for fur-
21 ther improving the enforcement of the customs and
22 trade laws of the United States and the facilitation
23 of the international trade of the United States;

24 (3) a specific identification of the priority trade
25 issues described in paragraph (3)(B)(ii) of section

1 2(d) of the Act of March 3, 1927 (44 Stat. 1381,
2 chapter 348; 19 U.S.C. 2072(d)), as added by sec-
3 tion 211(a) of this Act;

4 (4) a description of efforts made to improve
5 consultation and coordination among Federal de-
6 partments and agencies, and in particular between
7 the U.S. Customs and Border Protection Agency
8 and U.S. Immigration and Customs Enforcement,
9 regarding the enforcement of the customs and trade
10 laws of the United States and the facilitation of the
11 international trade of the United States;

12 (5) a description of the training that has oc-
13 curred to date within the U.S. Customs and Border
14 Protection Agency and U.S. Immigration and Cus-
15 toms Enforcement to improve such enforcement and
16 facilitation, including training under section 217 of
17 this Act;

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

21 (7) any legislative recommendations to further
22 improve such enforcement of the customs and trade
23 laws of the United States or facilitation.

24 (c) CONSULTATIONS.—

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

4 (A) appropriate officials from the relevant
5 Federal departments and agencies, including—

6 (i) the Department of the Treasury;

7 (ii) the Department of Agriculture;

8 (iii) the Department of Commerce;

9 (iv) the Department of Justice;

10 (v) the Department of the Interior;

11 (vi) the Department of Health and
12 Human Services;

13 (vii) the Food and Drug Administra-
14 tion;

15 (viii) the Consumer Product Safety
16 Commission; and

17 (ix) the Office of the United States
18 Trade Representative; and

19 (B) the Commercial Customs Operations
20 Advisory Committee (established in section 202
21 of this Act).

22 (2) OTHER CONSULTATIONS.—In developing
23 the Joint Strategic Plan required under this section,
24 the Commissioner and the Director shall seek to
25 consult with—

1 (A) appropriate officials from relevant for-
2 eign law enforcement agencies and international
3 organizations, including the World Customs Or-
4 ganization; and

5 (B) interested parties in the private sector.

6 **TITLE II—CUSTOMS FACILITA-**
7 **TION, TRADE ENFORCEMENT,**
8 **AND TRANSPARENCY**

9 **Subtitle A—Customs Facilitation**
10 **and Transparency**

11 **SEC. 201. CONSULTATIONS WITH RESPECT TO MUTUAL**
12 **RECOGNITION AGREEMENTS.**

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

18 (1) consult, not later than 30 days before initi-
19 ating negotiations to enter into any such agreement,
20 with the Committee on Finance of the Senate and
21 the Committee on Ways and Means of the House of
22 Representatives; and

23 (2) consult, not later than 30 days before enter-
24 ing into any such agreement, with the Committee on

1 Finance of the Senate and the Committee on Ways
2 and Means of the House of Representatives.

3 **SEC. 202. COMMERCIAL CUSTOMS OPERATIONS ADVISORY**
4 **COMMITTEE.**

5 (a) ESTABLISHMENT.—Not later than 60 days after
6 the date of enactment of this Act, the Secretary of the
7 Treasury and the Secretary of Homeland Security shall
8 jointly establish a Commercial Customs Operations Advi-
9 sory Committee (in this section referred to as the “Advi-
10 sory Committee”).

11 (b) MEMBERSHIP.—

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

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

16 (B) the Assistant Secretary for Tax Policy
17 of the Department of the Treasury and the As-
18 sistant Secretary of Policy and Planning of the
19 Department of Homeland Security, who shall
20 jointly co-chair meetings of the Advisory Com-
21 mittee; and

22 (C) the Commissioner of U.S. Customs
23 and Border Protection and the Director of U.S.
24 Immigration and Customs Enforcement, who

1 shall serve as deputy co-chairs of meetings of
2 the Advisory Committee.

3 (2) APPOINTMENT.—

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

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

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

17 (ii) to ensure that a majority of the
18 individuals are not members of the same
19 political party.

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

22 (1) advise the Secretary of the Treasury and
23 the Secretary of Homeland Security on matters in-
24 volving the commercial operations of the U.S. Cus-
25 toms and Border Protection Agency and U.S. Immi-

1 gration and Customs Enforcement, including advis-
2 ing with respect to significant changes that are pro-
3 posed with respect to agency regulations, policies, or
4 practices;

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

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

17 (d) MEETINGS.—The Advisory Committee shall meet
18 at the call of the Secretary of the Treasury and the Sec-
19 retary of Homeland Security.

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

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

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

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

11 (g) CONFORMING AMENDMENT.—

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

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

1 Advisory Committee established under subsection
2 (a).

3 **SEC. 203. AUTOMATED COMMERCIAL ENVIRONMENT COM-**
4 **PUTER SYSTEM.**

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

8 (1) in subparagraph (A)—

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

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

13 (2) in subparagraph (B)—

14 (A) by striking “2003 through 2005” and
15 inserting “2013 through 2015”;

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

19 (C) by striking “for the development” and
20 inserting “to complete the development”.

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

24 “(3) **REPORT.**—

1 “(A) IN GENERAL.—Not later than De-
2 cember 31, 2012, the Commissioner of U.S.
3 Customs and Border Protection shall submit to
4 the Committee on Appropriations and the Com-
5 mittee on Finance of the Senate and the Com-
6 mittee on Appropriations and the Committee on
7 Ways and Means of the House of Representa-
8 tives a report specifying—

9 “(i) the plans of the U.S. Customs
10 and Border Protection Agency and dead-
11 lines for incorporating all cargo release
12 data elements into the Automated Com-
13 mercial Environment computer system not
14 later than September 30, 2015, to conform
15 with the admissibility criteria of agencies
16 participating in the International Trade
17 Data System identified pursuant to section
18 411(d)(4)(A)(iii) of the Tariff Act of 1930;

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

1 “(iii) the Agency’s objectives, plans,
2 and deadlines for implementing the prior-
3 ities identified under clause (ii) not later
4 than September 30, 2015.

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

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

21 (1) evaluating the cost and effectiveness of the
22 efforts of the U.S. Customs and Border Protection
23 Agency to complete the development, establishment,
24 and implementation of the Automated Commercial
25 Environment computer system;

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

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

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

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

16 (1) in paragraph (1), by adding at the end the
17 following:

18 “(F) PROHIBITION ON OTHER SYSTEMS
19 FOR CARGO CLEARANCE.—The Secretary shall
20 ensure that each agency that participates in the
21 ITDS use the ITDS to collect and distribute
22 data and documentation for clearing or licens-
23 ing the importation or exportation of cargo, in-
24 cluding to authorize the release of cargo by the
25 U.S. Customs and Border Protection Agency,

1 and does not use any other system for such
2 purposes.”;

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

5 (3) by inserting after paragraph (3) the fol-
6 lowing:

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

11 “(A) develop and maintain the necessary
12 information technology infrastructure to sup-
13 port the operation of the ITDS;

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

21 “(C) not later than March 31, 2013, iden-
22 tify and transmit to the Commissioner of U.S.
23 Customs and Border Protection the admissi-
24 bility criteria and data elements required by the
25 agency to authorize the release of cargo by the

1 U.S. Customs and Border Protection Agency
 2 for incorporation into the operational
 3 functionality of the Automated Commercial En-
 4 vironment computer system.”;

5 (4) in paragraph (5), as redesignated, by strik-
 6 ing “each fiscal year” and inserting “each of the fis-
 7 cal years 2010 through 2013”; and

8 (5) in paragraph (8), as redesignated, by strik-
 9 ing “section 9503(c) of the Omnibus Budget Rec-
 10 onciliation Act of 1987 (19 U.S.C. 2071 note)” and
 11 inserting “section 202 of the Customs Trade Facili-
 12 tation and Enforcement Act of 2012”.

13 **Subtitle B—Trade Enforcement**

14 **CHAPTER 1—COMMERCIAL RISK**

15 **ASSESSMENT TARGETING**

16 **SEC. 211. COMMERCIAL TARGETING DIVISION AND NA-**
 17 **TIONAL TARGETING AND ANALYSIS GROUPS.**

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

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

24 “(A) ESTABLISHMENT OF COMMERCIAL
 25 TARGETING DIVISION.—

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

5 “(ii) COMPOSITION.—The Commercial
6 Targeting Division shall be composed of—

7 “(I) headquarters personnel led
8 by an Executive Director, who shall
9 report to the Assistant Commissioner
10 of the Office of International Trade;
11 and

12 “(II) individual National Tar-
13 geting and Analysis Groups, each led
14 by a Director who shall report to the
15 Executive Director of the Commercial
16 Targeting Division.

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

19 “(I) to the development and con-
20 duct of commercial risk assessment
21 targeting with respect to cargo des-
22 tined for the United States in accord-
23 ance with subparagraph (C); and

24 “(II) to issuing Trade Alerts de-
25 scribed in subparagraph (D).

1 “(B) NATIONAL TARGETING AND ANALYSIS
2 GROUPS.—

3 “(i) IN GENERAL.—A National Tar-
4 geting and Analysis Group referred to in
5 subparagraph (A)(ii)(II) shall, at a min-
6 imum, be established for each priority
7 trade issue described in clause (ii).

8 “(ii) PRIORITY TRADE ISSUES.—

9 “(I) IN GENERAL.—The priority
10 trade issues described in this clause
11 are the following:

12 “(aa) Agriculture programs.

13 “(bb) Antidumping and
14 countervailing duties.

15 “(cc) Import safety.

16 “(dd) Intellectual property
17 rights.

18 “(ee) Penalties.

19 “(ff) Revenue.

20 “(gg) Textiles.

21 “(hh) Trade agreements.

22 “(II) MODIFICATION.—The Com-
23 missioner is authorized to establish
24 new priority trade issues and elimi-
25 nate, consolidate, or otherwise modify

1 the priority trade issues described in
2 this paragraph if the Commissioner—

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

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

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

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

23 “(II) facilitating, promoting, and
24 coordinating cooperation and the ex-
25 change of information between the

1 U.S. Customs and Border Protection
2 Agency, U.S. Immigration and Customs
3 Enforcement, and other relevant
4 Federal departments and agencies re-
5 garding the Group’s priority trade
6 issue; and

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

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

23 “(bb) obtaining information
24 from the appropriate U.S. Cus-
25 toms and Border Protection

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

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

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

1 “(i) establish targeted risk assessment
2 methodologies and standards—

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

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

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

24 “(D) TRADE ALERTS.—

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

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

22 “(I) the director finds that such
23 a determination is justified by port se-
24 curity interests; and

1 “(II) notifies the Assistant Com-
2 missioner of the Office of Field Oper-
3 ations of the U.S. Customs and Bor-
4 der Protection Agency of the deter-
5 mination and the reasons for the de-
6 termination not later than 48 hours
7 after making the determination.

8 “(iii) SUMMARY OF DETERMINATIONS
9 NOT TO IMPLEMENT.—The Assistant Com-
10 missioner of the Office of Field Operations
11 of the U.S. Customs and Border Protec-
12 tion Agency shall—

13 “(I) compile an annual public
14 summary of all determinations by di-
15 rectors of United States ports of entry
16 under clause (ii) and the reasons for
17 those determinations; and

18 “(II) submit the summary to the
19 Committee on Finance of the Senate
20 and the Committee on Ways and
21 Means of the House of Representa-
22 tives not later than December 31 of
23 each year.

24 “(iv) INSPECTION DEFINED.—In this
25 subparagraph, the term ‘inspection’ means

1 the comprehensive evaluation process used
2 by the U.S. Customs and Border Protec-
3 tion Agency, other than physical examina-
4 tion or testing, to permit the entry of mer-
5 chandise into the United States, or the
6 clearance of merchandise for transpor-
7 tation in bond through the United States,
8 for purposes of—

9 “(I) assessing duties;

10 “(II) identifying restricted or
11 prohibited items; and

12 “(III) ensuring compliance with
13 all applicable customs and trade laws
14 and regulations administered by the
15 Agency.”.

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

19 (1) in the first sentence of paragraph (2), by
20 inserting “and to carry out commercial risk assess-
21 ment targeting (as described in 2(d)(3)(C) of the
22 Act of March 3, 1927 (44 Stat. 1381, chapter 348;
23 19 U.S.C. 2072(d))” after “to ensure cargo safety
24 and security”; and

25 (2) in paragraph (3)—

1 (A) by striking subparagraph (F); and
2 (B) by redesignating subparagraphs (G)
3 through (L) as subparagraphs (F) through (K).

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

5 Section 2(d) of the Act of March 3, 1927 (44 Stat.
6 1381, chapter 348; 19 U.S.C. 2072(d)), as amended by
7 sections 102(d) and 211 of this Act, is further amended
8 by adding at the end the following:

9 “(4) CENTERS OF EXCELLENCE AND EXPERTISE.—
10 TISE.—

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

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

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

24 “(i) to facilitating legitimate trade
25 through increasing specific industry knowl-

1 edge and uniformity of cargo clearance
2 procedures;

3 “(ii) to improving enforcement efforts
4 of priority trade issues described in para-
5 graph (3)(B)(ii) in specific industry sectors
6 through application of targeting informa-
7 tion from the Commercial Targeting Divi-
8 sion established under paragraph (3)(A)
9 and from other means of verifications;

10 “(iii) to developing and implementing
11 measurable benefits to the trade commu-
12 nity;

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

17 “(v) to developing applicable perform-
18 ance measurements to meet internal effi-
19 ciency and effectiveness goals; and

20 “(vi) to increasing the accuracy and
21 completeness of international trade data
22 and facilitate a more efficient flow of infor-
23 mation between Federal departments and
24 agencies.”.

1 **SEC. 213. REPORT ON OVERSIGHT OF REVENUE PROTEC-**
2 **TION AND ENFORCEMENT MEASURES.**

3 (a) CONTENTS OF REPORT.—The Inspector General
4 of the Department of Homeland Security shall, at the
5 times specified in subsection (b), submit to the Committee
6 on Finance of the Senate and the Committee on Ways and
7 Means of the House of Representatives a report assessing
8 the following, with respect to the 2-fiscal-year period to
9 which the report applies:

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

13 (A) the collection of countervailing and
14 antidumping duties;

15 (B) the assessment and collection of com-
16 mercial fines and penalties; and

17 (C) the adequacy of the policies of the
18 Agency with respect to monitoring and tracking
19 of merchandise transported in bond and col-
20 lecting duties, as appropriate.

21 (2) The effectiveness of actions taken by the
22 U.S. Customs and Border Protection Agency to
23 measure accountability and performance with re-
24 spect to revenue protection.

25 (3) The number and outcome of investigations
26 instituted by the U.S. Customs and Border Protec-

1 tion Agency with respect to the underpayment of du-
2 ties.

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

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

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

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

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

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

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

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

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

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

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

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

6 **SEC. 215. REPORT ON EFFECTIVENESS OF TRADE EN-**
7 **FORCEMENT ACTIVITIES.**

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

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

16 (1) a description of the use of resources, results
17 of audits and verifications, targeting, organization,
18 and training of the U.S. Customs and Border Pro-
19 tection Agency; and

20 (2) a description of trade enforcement activities
21 to address undervaluation, transshipment, legitimacy
22 of entities making entry, protection of revenues,
23 fraud prevention and detection, and penalties, in-
24 cluding intentional misclassification, inadequate
25 bonding, and other misrepresentations.

1 **SEC. 216. PRIORITIES AND PERFORMANCE STANDARDS**
2 **FOR CUSTOMS MODERNIZATION, TRADE FA-**
3 **CILITATION, AND TRADE ENFORCEMENT**
4 **FUNCTIONS AND PROGRAMS.**

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

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

15 (2) **MINIMUM PRIORITIES AND STANDARDS.—**

16 Such priorities and performance standards shall, at
17 a minimum, include priorities and standards relating
18 to efficiency, outcome, output, and other types of ap-
19 plicable measures.

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

23 (1) The Automated Commercial Environment
24 computer system authorized under section
25 13031(f)(5) of the Consolidated Omnibus Budget

1 and Reconciliation Act of 1985 (19 U.S.C.
2 58c(f)(5)).

3 (2) Each of the priority trade issues described
4 in paragraph (3)(B)(ii) of section 2(d) of the Act of
5 March 3, 1927 (44 Stat. 1381, chapter 348; 19
6 U.S.C. 2072(d)), as added by section 211(a) of this
7 Act.

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

10 (4) Drawback for exported merchandise under
11 section 313 of the Tariff Act of 1930 (19 U.S.C.
12 1313), as amended by section 404 of this Act.

13 (5) Transactions relating to imported merchan-
14 dise in bond.

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

20 (7) The expedited clearance of cargo.

21 (8) The issuance of regulations and rulings.

22 (9) The issuance of Regulatory Audit Reports.

23 (c) SUBMISSION TO CONGRESS.—

24 (1) IN GENERAL.—The Commissioner of U.S.
25 Customs and Border Protection shall submit to the

1 Committee on Ways and Means of the House of
2 Representatives and the Committee on Finance of
3 the Senate a description of the priorities and per-
4 formance standards referred to in subsection (a) not
5 later than 180 days after the date of enactment of
6 this Act.

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

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

21 **SEC. 217. EDUCATIONAL SEMINARS TO IMPROVE EFFORTS**
22 **TO CLASSIFY AND APPRAISE IMPORTED AR-**
23 **TICLES AND TO IMPROVE TRADE ENFORCE-**
24 **MENT EFFORTS.**

25 (a) IN GENERAL.—

1 (1) ESTABLISHMENT.—The Commissioner of
2 U.S. Customs and Border Protection and the Direc-
3 tor of U.S. Immigration and Customs Enforcement
4 shall establish and carry out on a fiscal year basis
5 educational seminars to—

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

11 (B) improve the trade enforcement efforts
12 of U.S. Customs and Border Protection Agency
13 personnel and U.S. Immigration and Customs
14 Enforcement personnel.

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

19 (b) CONTENT.—

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

1 section to U.S. Customs and Border Protection
2 Agency personnel and, as appropriate, to U.S. Immi-
3 gration and Customs Enforcement Agency personnel
4 on the following:

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

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

16 (C) Customs valuation.

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

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

1 toms and Border Protection Agency personnel and,
2 as appropriate, to U.S. Immigration and Customs
3 Enforcement Agency personnel to identify opportuni-
4 ties to enhance enforcement of the following:

5 (A) Collection of countervailing duties as-
6 sessed under subtitle A of title VII of the Tariff
7 Act of 1930 (19 U.S.C. 1671 et seq.) and anti-
8 dumping duties assessed under subtitle B of
9 title VII of the Tariff Act of 1930 (19 U.S.C.
10 1673 et seq.).

11 (B) Addressing evasion of duties on im-
12 ports of textiles.

13 (C) Protection of intellectual property
14 rights.

15 (D) Enforcement of child labor laws.

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

21 (c) SELECTION PROCESS.—

22 (1) IN GENERAL.—The Commissioner shall es-
23 tablish a process to solicit, evaluate, and select inter-
24 ested parties in the private sector for purposes of as-
25 sisting in providing instruction and related instruc-

1 tional materials described in subsection (b) at each
2 educational seminar under this section.

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

7 (A) availability and usefulness;

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

11 (C) other appropriate criteria established
12 by the Commissioner.

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

17 (d) SPECIAL RULE FOR ANTIDUMPING AND COUN-
18 TERTVAILING ORDERS.—

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

1 or 1673e) upon the request of a petitioner in an ac-
2 tion underlying such countervailing or antidumping
3 duty order.

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

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

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

18 (g) DEFINITIONS.—In this section:

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

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

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

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

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

18 **CHAPTER 2—IMPORTER REQUIREMENTS**

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

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

1 (b) REQUIREMENTS.—The Secretary of Homeland
2 Security shall ensure that, as part of the importer of
3 record program, the U.S. Customs and Border Protection
4 Agency—

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

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

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

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

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

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

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

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

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

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

20 **SEC. 222. CUSTOMS BROKER IDENTIFICATION OF IMPORT-**
21 **ERS.**

22 (a) IN GENERAL.—Section 641 of the Tariff Act of
23 1930 (19 U.S.C. 1641) is amended by adding at the end
24 the following:

25 “(i) IDENTIFICATION OF IMPORTERS.—

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

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

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

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

20 “(3) PENALTIES.—Any customs broker who
21 fails to collect information required under the regu-
22 lations prescribed under this subsection shall be lia-
23 ble to the United States, at the discretion of the
24 Secretary, for a monetary penalty not to exceed
25 \$10,000 for each violation of those regulations and

1 subject to revocation or suspension of a license or
2 permit of the customs broker pursuant to the proce-
3 dures set forth in subsection (d).

4 “(4) DEFINITIONS.—In this subsection, the
5 terms ‘importer’ and ‘nonresident importer’ have the
6 meaning given such terms in section 2 of the Cus-
7 toms Trade Facilitation and Enforcement Act of
8 2012.”.

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

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

24 (2) establishing a system for customs brokers to
25 review information maintained by relevant Federal

1 agencies for purposes of verifying the identities of
2 importers, including nonresident importers, seeking
3 to import merchandise into the United States.

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

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

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

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

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

21 (B) to increase screening of imported prod-
22 ucts of new importers;

23 (2) develops procedures to ensure increased
24 oversight of imported products of new importers re-
25 lating to the enforcement of the priority trade issues

1 described in paragraph (3)(B)(ii) of section 2(d) of
2 the Act of March 3, 1927 (44 Stat. 1381, chapter
3 348; 19 U.S.C. 2072(d)), as added by section 211(a)
4 of this Act;

5 (3) develops procedures to ensure increased
6 oversight of imported products of new importers by
7 Centers of Excellence and Expertise established
8 under section 212; and

9 (4) establishes a centralized database of new
10 importers to ensure accuracy of information that is
11 required to be provided by new importers to the U.S.
12 Customs and Border Protection Agency.

13 **SEC. 224. REQUIREMENTS APPLICABLE TO NON-RESIDENT**
14 **IMPORTERS.**

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

18 **“SEC. 484c. REQUIREMENTS APPLICABLE TO NON-RESI-**
19 **DENT IMPORTERS.**

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

1 United States subject to the requirements described in
2 subsection (b).

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

5 “(1) The resident agent shall be authorized to
6 accept service of process against the non-resident
7 importer in connection with the importation of mer-
8 chandise.

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

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

24 “(4) The Commissioner of U.S. Customs and
25 Border Protection shall require the non-resident im-

1 porter to establish a power of attorney with the resi-
2 dent agent in connection with the importation of
3 merchandise.

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

10 “(d) PENALTIES.—

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

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

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

1 “(4) DEFINITION.—In this subsection, the term
2 ‘customs and trade laws of the United States’ has
3 the meaning given such term in section 2 of the
4 Customs Trade Facilitation and Enforcement Act of
5 2012.”.

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

13 **SEC. 225. CERTIFIED IMPORTER PROGRAM.**

14 (a) INTERAGENCY COMMITTEE.—

15 (1) ESTABLISHMENT AND MEMBERSHIP.—
16 There is established an interagency committee com-
17 posed of representatives of each covered Federal
18 agency.

19 (2) CHAIRPERSON.—The Commissioner of U.S.
20 Customs and Border Protection shall serve as the
21 chairperson of the interagency committee.

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

23 (1) not later than December 30, 2014, and in
24 consultation with interested parties in the private

1 sector, establish a certified importer program as de-
2 scribed in subsection (c); and

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

6 (c) CERTIFIED IMPORTER PROGRAM.—

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

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

22 (d) DEFINITIONS.—In this section:

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

1 (A)(i) is a validated Tier 2 or Tier 3 par-
2 ticipant in the Customs-Trade Partnership
3 Against Terrorism program established under
4 subtitle B of title II of the SAFE Port Act (6
5 U.S.C. 961 et seq.); and

6 (ii) is a participant in good standing of the
7 U.S. Customs and Border Protection Agency's
8 importer self-assessment program; and

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

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

22 (e) REPORT.—

23 (1) IN GENERAL.—Not later than March 31,
24 2014, the Commissioner of U.S. Customs and Bor-
25 der Protection shall submit to the Committee on Fi-

1 nance of the Senate and the Committee on Ways
 2 and Means of the House of Representatives a report
 3 assessing the progress in establishing the certified
 4 importer program as described in subsection (c) and
 5 coordination among the Commissioner and the heads
 6 of each covered Federal agency in facilitating the
 7 implementation of the certified importer program.

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

14 **CHAPTER 3—IMPORT-RELATED PROTEC-**
 15 **TION OF INTELLECTUAL PROPERTY**
 16 **RIGHTS**

17 **SEC. 231. EXCHANGE OF INFORMATION RELATED TO**
 18 **TRADE ENFORCEMENT.**

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

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

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

1 “(1) SHARING OF INFORMATION AND SAM-
2 PLES.—Notwithstanding any other provision of law,
3 the Secretary is authorized, at the time that mer-
4 chandise is presented for examination and there-
5 after, to provide to the owner of a copyright or a
6 registered mark, with notification to the importer of
7 record—

8 “(A) any information appearing on the
9 merchandise or its retail packaging,

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

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

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

1 “(2) NONDISCLOSURE.—

2 “(A) IN GENERAL.—Any owner of a copy-
3 right or a registered mark to whom informa-
4 tion, a sample, an image, or material described
5 in subparagraph (A), (B), or (C) of paragraph
6 (1) is provided under paragraph (1) may not
7 disclose it to any other person or use it for a
8 purpose other than the purpose described in
9 paragraph (1).

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

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

1 other than a proceeding described in subpara-
2 graph (B).

3 “(3) BONDING REQUIREMENTS.—The Secretary
4 may impose bonding requirements on the owner of
5 the copyright or registered mark as a condition of
6 disclosure of information and the provision of sam-
7 ples under this subsection.

8 “(4) IMPLEMENTATION.—

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

23 “(B) INFORMATION SHARING PROC-
24 ESSES.—

25 “(i) FOR IMPORTERS.—

1 “(I) IN GENERAL.—The Sec-
2 retary is authorized to establish a
3 clearance process for those importers
4 of record who wish to participate in
5 the process to allow for or accelerate
6 the release of merchandise from the
7 custody of the United States Customs
8 and Border Protection Agency without
9 the provision under paragraph (1),
10 prior to seizure of the merchandise, of
11 information, samples, images, or ma-
12 terial with respect to the merchandise.

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

24 “(ii) FOR OWNERS OF COPYRIGHTS
25 AND REGISTERED MARKS.—

1 “(I) IN GENERAL.—

2 “(aa) ESTABLISHMENT.—

3 The Secretary shall establish a
4 process or processes for those
5 owners of copyrights and owners
6 of registered marks that wish to
7 participate in the process or
8 processes, through which any
9 sharing of information, samples,
10 images, and material under para-
11 graph (1) will be carried out be-
12 fore the notification to the im-
13 porter of record referred to in
14 paragraph (1) is made, subject to
15 the limitation under subclause
16 (II) of clause (i).

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

1 “(II) PROVISION OF SAMPLES
2 AND INFORMATION TO CBP.—The
3 Secretary is authorized to establish a
4 process for those owners of copyrights
5 and owners of registered marks that
6 wish to provide to the United States
7 Customs and Border Protection Agen-
8 cy samples of, or information regard-
9 ing, their copyrighted merchandise or
10 merchandise that bears their reg-
11 istered marks (as the case may be), to
12 assist the Secretary in determining
13 whether merchandise presented for ex-
14 amination infringes the copyright or
15 bears or consists of a counterfeit
16 mark of the registered mark.

17 “(b) MERCHANDISE IN VIOLATION OF
18 ANTICIRCUMVENTION MEASURES.—

19 “(1) NOTIFICATION UPON SEIZURE.—

20 “(A) NOTIFICATION OF COPYRIGHT
21 OWNER.—Upon the seizure of merchandise by
22 the Secretary for a violation of subsection (a) or
23 (b) of section 1201 of title 17, United States
24 Code, the Secretary shall notify the owner of a
25 copyright who is included on the list established

1 under paragraph (4) of the seizure of the mer-
2 chandise that is capable of circumventing a
3 technological measure of the copyright owner
4 under either such subsection. The Secretary
5 shall also provide to any such person additional
6 information upon request, which shall be equiv-
7 alent to information provided pursuant to sec-
8 tion 602(b) of title 17, United States Code, and
9 the regulations issued under that section.

10 “(B) NOTIFICATION OF TRADEMARK
11 OWNER.—Upon the seizure of merchandise by
12 the Secretary for a violation of subsection (a) or
13 (b) of section 1201 of title 17, United States
14 Code, the Secretary shall notify the owner of a
15 registered mark—

16 “(i) on hardware that contains a tech-
17 nological measure that the seized merchan-
18 dise is capable of circumventing, or

19 “(ii) on hardware on which the use of
20 the seized merchandise is capable of cir-
21 cumventing a technological measure of a
22 copyright owner,

23 in either case in a manner that would result in
24 injury to the owner of a copyright under either
25 such subsection, if the owner of the registered

1 mark is included on the list established under
2 paragraph (4). The Secretary shall also provide
3 to any such person additional information upon
4 request, which shall be equivalent to informa-
5 tion provided pursuant to section 602(b) of title
6 17, United States Code, and the regulations
7 issued under that section.

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

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

21 “(B) RECIPIENTS OF SAMPLES.—Persons
22 to whom provision of samples is authorized
23 under subparagraph (A) are—

24 “(i) the owner of a copyright whose
25 technological measure the merchandise is

1 capable of circumventing under subsection
2 (a) or (b) of section 1201 of title 17,
3 United States Code; and

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

5 “(I) on hardware that contains a
6 technological measure that the seized
7 merchandise is capable of circum-
8 venting, or

9 “(II) on hardware on which the
10 use of the seized merchandise is capa-
11 ble of circumventing a technological
12 measure of a copyright owner,

13 in either case in a manner that would re-
14 sult in injury to the owner of a copyright
15 under either such subsection.

16 “(C) NONDISCLOSURE.—

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

1 “(ii) EXCEPTION.—Clause (i) does not
2 apply in the case of a sample that is dis-
3 closed or used in a civil action for infringe-
4 ment of a copyright under title 17, United
5 States Code, or infringement of a reg-
6 istered mark under the Lanham Act.

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

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

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

21 “(A) IN GENERAL.—In the case of mer-
22 chandise subject to seizure by the Secretary for
23 a violation of subsection (a) or (b) of section
24 1201 of title 17, United States Code, the Sec-
25 retary is authorized to provide a sample of the

1 merchandise to any person described in sub-
2 paragraph (B) if the merchandise has been
3 seized for such a violation.

4 “(B) RECIPIENTS OF SAMPLES.—Persons
5 to whom provision of samples is authorized
6 under subparagraph (A) are—

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

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

15 “(I) on hardware that contains a
16 technological measure that the seized
17 merchandise is capable of circum-
18 venting, or

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

23 in either case in a manner that would re-
24 sult in injury to the owner of a copyright
25 under either such subsection, if the owner

1 of the registered mark is included on the
2 list established under paragraph (4). The
3 Secretary shall also provide to any such
4 person additional information upon re-
5 quest, which shall be equivalent to infor-
6 mation provided pursuant to section
7 602(b) of title 17, United States Code, and
8 the regulations issued under that section.

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

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

23 “(5) REGULATIONS.—Not later than the 90th
24 day after the date of the enactment of this section,

1 the Secretary shall promulgate regulations estab-
2 lishing procedures that implement this subsection.

3 “(c) NOTIFICATION OF PARTIES RESPONSIBLE FOR
4 INITIATION OF SECTION 337 INVESTIGATIONS.—The Sec-
5 retary is authorized to notify the party or parties respon-
6 sible for initiating an investigation under section 337 of
7 this Act when merchandise is excluded under subsection
8 (d) of that section, or merchandise is seized under sub-
9 section (i) of that section, pursuant to that investigation.

10 “(d) DEFINITIONS.—In this section:

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

14 “(2) The term ‘Lanham Act’ means the Act en-
15 titled ‘An Act to provide for the registration and
16 protection of trademarks used in commerce, to carry
17 out the provisions of certain international conven-
18 tions, and for other purposes’, approved July 5,
19 1946 (15 U.S.C. 1051 et seq.).

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

23 “(4) The term ‘registered mark’ has the mean-
24 ing given that term in section 45 of the Lanham Act
25 (15 U.S.C. 1127).

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

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

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

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

12 **SEC. 301. SHORT TITLE.**

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

16 **SEC. 302. DEFINITIONS.**

17 In this title:

18 (1) APPROPRIATE CONGRESSIONAL COMMIT-
19 TEES.—The term “appropriate congressional com-
20 mittees” means—

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

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

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

7 (3) COVERED MERCHANDISE.—The term “cov-
8 ered merchandise” means merchandise that is sub-
9 ject to—

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

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

14 (4) ELIGIBLE SMALL BUSINESS.—

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

22 (B) NON-REVIEWABILITY.—Any agency
23 decision regarding whether a business concern
24 is an eligible small business for purposes of sec-

1 tion 311(b)(3) is not reviewable by any other
2 agency or by any court.

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

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

17 (7) SECRETARY.—The term “Secretary” means
18 the Secretary of the Treasury.

19 (8) TRADE REMEDY LAWS.—The term “trade
20 remedy laws” means title VII of the Tariff Act of
21 1930.

22 **SEC. 303. APPLICATION TO CANADA AND MEXICO.**

23 Pursuant to article 1902 of the North American Free
24 Trade Agreement and section 408 of the North American
25 Free Trade Agreement Implementation Act (19 U.S.C.

1 3438), this title and the amendments made by this title
2 shall apply with respect to goods from Canada and Mexico.

3 **Subtitle A—Actions Relating to En-**
4 **forcement of Trade Remedy**
5 **Laws**

6 **SEC. 311. TRADE REMEDY LAW ENFORCEMENT DIVISION.**

7 (a) ESTABLISHMENT.—

8 (1) IN GENERAL.—The Secretary of Homeland
9 Security shall establish and maintain within the Of-
10 fice of International Trade of U.S. Customs and
11 Border Protection, established under section 2(d) of
12 the Act of March 3, 1927 (44 Stat. 1381, chapter
13 348; 19 U.S.C. 2072(d)), a Trade Remedy Law En-
14 forcement Division.

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

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

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

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

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

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

5 (C) to the development and conduct of
6 commercial risk assessment targeting with re-
7 spect to cargo destined for the United States in
8 accordance with subsection (c);

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

11 (E) to the development of policies for the
12 application of single entry and continuous
13 bonds for entries of covered merchandise to suf-
14 ficiently protect the collection of antidumping
15 and countervailing duties commensurate with
16 the level of risk of noncollection.

17 (b) DUTIES OF DIRECTOR.—The duties of the Direc-
18 tor of the Trade Remedy Law Enforcement Division shall
19 include—

20 (1) directing the trade enforcement and compli-
21 ance assessment activities of the U.S. Customs and
22 Border Protection Agency that concern evasion;

23 (2) facilitating, promoting, and coordinating co-
24 operation and the exchange of information between
25 the U.S. Customs and Border Protection Agency,

1 U.S. Immigration and Customs Enforcement, and
2 other relevant agencies regarding evasion;

3 (3) notifying on a timely basis the admin-
4 istering authority (as defined in section 771(1) of
5 the Tariff Act of 1930 (19 U.S.C. 1677(1))) and the
6 Commission (as defined in section 771(2) of the
7 Tariff Act of 1930 (19 U.S.C. 1677(2))) of any
8 finding, determination, civil action, or criminal ac-
9 tion taken by the U.S. Customs and Border Protec-
10 tion Agency or other Federal agency regarding eva-
11 sion;

12 (4) serving as the primary liaison between the
13 U.S. Customs and Border Protection Agency and
14 the public regarding United States Government ac-
15 tivities concerning evasion, including—

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

19 (B) upon request by the party or parties
20 that submitted an allegation of evasion, provide
21 information to such party or parties on the sta-
22 tus of the U.S. Customs and Border Protection
23 Agency's consideration of the allegation and de-
24 cision to pursue or not pursue any investiga-
25 tions or other actions, such as changes in poli-

1 cies, procedures, or resource allocation as a re-
2 sult of the allegation;

3 (C) as needed, request from the party or
4 parties that submitted an allegation of evasion
5 any additional information that may be relevant
6 for the U.S. Customs and Border Protection
7 Agency determining whether to initiate an in-
8 vestigation or take any other action regarding
9 the allegation;

10 (D) notify on a timely basis the party or
11 parties that submitted such an allegation of the
12 results of any civil or criminal actions taken by
13 the U.S. Customs and Border Protection Agen-
14 cy or other Federal agency regarding evasion as
15 a direct or indirect result of the allegation;

16 (E) upon request, provide technical assist-
17 ance and advice to eligible small businesses to
18 enable such businesses to prepare and submit
19 allegations of evasion, except that the Director
20 may deny assistance if the Director concludes
21 that the allegation, if submitted, would not lead
22 to the initiation of an investigation or any other
23 action to address the allegation;

24 (F) in cooperation with the public, the
25 Commercial Customs Operations Advisory Com-

1 mittee, the Trade Support Network, and any
2 other relevant parties and organizations, de-
3 velop guidelines on the types and nature of in-
4 formation that may be provided in allegations
5 of evasion; and

6 (G) regularly consult with the public, the
7 Commercial Customs Operations Advisory Com-
8 mittee, the Trade Support Network, and any
9 other relevant parties and organizations regard-
10 ing the development and implementation of reg-
11 ulations, interpretations, and policies related to
12 countering evasion.

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

18 (1) establish targeted risk assessment meth-
19 odologies and standards—

20 (A) for evaluating the risk that cargo des-
21 tined for the United States may constitute
22 evading covered merchandise; and

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

1 (2) to the extent practicable and otherwise au-
2 thorized by law, use information available from the
3 Automated Commercial System, the Automated
4 Commercial Environment computer system, the
5 Automated Targeting System, the Automated Ex-
6 port System, the International Trade Data System,
7 and the Treasury Enforcement Communications
8 System, and any successor systems, to administer
9 the methodologies and standards established under
10 paragraph (1).

11 (d) TRADE ALERTS.—Based upon the application of
12 the targeted risk assessment methodologies and standards
13 established under subsection (c), the Director of the Trade
14 Remedy Law Enforcement Division shall issue Trade
15 Alerts or other such means of notification to directors of
16 United States ports of entry directing further inspection,
17 or physical examination or testing, of specific merchandise
18 to ensure compliance with the trade remedy laws.

19 **SEC. 312. COLLECTION OF INFORMATION ON EVASION OF**
20 **TRADE REMEDY LAWS.**

21 (a) AUTHORITY TO COLLECT INFORMATION.—To de-
22 termine whether covered merchandise is being entered into
23 the customs territory of the United States through eva-
24 sion, the Secretary, acting through the Commissioner—

1 (1) shall exercise all existing authorities to col-
2 lect information needed to make the determination;
3 and

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

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

11 (B) a person who is alleged to have en-
12 tered the covered merchandise into the customs
13 territory of the United States through evasion;
14 or

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

19 (b) ADVERSE INFERENCE.—

20 (1) IN GENERAL.—If the Secretary finds that a
21 person who filed an allegation, a person alleged to
22 have entered covered merchandise into the customs
23 territory of the United States through evasion, or a
24 foreign producer or exporter of covered merchandise
25 that is alleged to have entered into the customs ter-

1 ritory of the United States through evasion, has
2 failed to cooperate by not acting to the best of the
3 person's ability to comply with a request for infor-
4 mation, the Secretary may, in making a determina-
5 tion whether an entry or entries of covered merchan-
6 dise may constitute merchandise that is entered into
7 the customs territory of the United States through
8 evasion, use an inference that is adverse to the inter-
9 ests of that person in selecting from among the facts
10 otherwise available to determine whether evasion has
11 occurred.

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

15 (A) the allegation of evasion of the trade
16 remedy laws, if any, submitted to the U.S. Cus-
17 toms and Border Protection Agency;

18 (B) a determination by the Commissioner
19 in another investigation, proceeding, or other
20 action regarding evasion of the unfair trade
21 laws; or

22 (C) any other available information.

23 **SEC. 313. ACCESS TO INFORMATION.**

24 (a) IN GENERAL.—Section 777(b)(1)(A)(ii) of the
25 Trade Act of 1930 (19 U.S.C. 1677f(b)(1)(A)(ii)) is

1 amended by inserting “negligence, gross negligence, or”
2 after “regarding”.

3 (b) **ADDITIONAL INFORMATION.**—Notwithstanding
4 any other provision of law, the Secretary is authorized to
5 provide to the Secretary of Commerce or the U.S. Inter-
6 national Trade Commission any information that is nec-
7 essary to enable the Secretary of Commerce or the U.S.
8 International Trade Commission to assist the Secretary
9 to identify, through risk assessment targeting or other-
10 wise, covered merchandise that is entered into the customs
11 territory of the United States through evasion.

12 **SEC. 314. COOPERATION WITH FOREIGN COUNTRIES ON**
13 **PREVENTING EVASION OF TRADE REMEDY**
14 **LAWS.**

15 (a) **BILATERAL AGREEMENTS.**—

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

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

1 (A) On the request of the importing party,
2 the exporting party shall provide, consistent
3 with its laws, regulations, and procedures, pro-
4 duction, trade, and transit documents and other
5 information necessary to determine whether an
6 entry or entries exported from the exporting
7 party are subject to the importing party's trade
8 remedy laws.

9 (B) On the written request of the import-
10 ing party, the exporting party shall conduct a
11 verification for purposes of enabling the import-
12 ing party to make a determination described in
13 subparagraph (A).

14 (C) The exporting party may allow the im-
15 porting party to participate in a verification de-
16 scribed in subparagraph (B), including through
17 a site visit.

18 (D) If the exporting party does not allow
19 participation of the importing party in a
20 verification described in subparagraph (B), the
21 importing party may take this fact into consid-
22 eration in its trade enforcement and compliance
23 assessment activities regarding the compliance
24 of the exporting countries' exports with the im-
25 porting countries' trade remedy laws.

1 (b) CONSIDERATION.—The Commissioner is author-
2 ized to take into consideration whether a country is a sig-
3 natory to a bilateral agreement described in subsection (a)
4 and the extent to which the country is cooperating under
5 the bilateral agreement for purposes of trade enforcement
6 and compliance assessment activities of U.S. Customs and
7 Border Protection that concern evasion by such country’s
8 exports.

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

13 (1) the status of any ongoing negotiations of bi-
14 lateral agreements described in subsection (a), in-
15 cluding the identities of the countries involved in
16 such negotiations;

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

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

22 **SEC. 315. TRADE NEGOTIATING OBJECTIVES.**

23 The principal negotiating objectives of the United
24 States shall include obtaining the objectives of the bilat-
25 eral agreements described under section 314(a) for any

1 trade agreements under negotiation as of the date of the
2 enactment of this Act or future trade agreement negotia-
3 tions.

4 **Subtitle B—Other Matters**

5 **SEC. 321. ALLOCATION AND TRAINING OF PERSONNEL.**

6 The Commissioner shall, to the maximum extent pos-
7 sible, ensure that the U.S. Customs and Border Protection
8 Agency—

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

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

22 (3) provides adequate training to relevant per-
23 sonnel to increase expertise and effectiveness in the
24 prevention and investigation of entries of covered

1 merchandise into the customs territory of the United
2 States through evasion.

3 **SEC. 322. ANNUAL REPORT ON PREVENTION OF EVASION**
4 **OF ANTIDUMPING AND COUNTERVAILING**
5 **DUTY ORDERS.**

6 (a) IN GENERAL.—Not later than February 28 of
7 each year, beginning in 2013, the Commissioner, in con-
8 sultation with the Secretary of Commerce and the Assist-
9 ant Secretary for U.S. Immigration and Customs Enforce-
10 ment, shall submit to the appropriate congressional com-
11 mittees a report on the efforts being taken to prevent and
12 investigate evasion.

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

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

17 (A) a summary of the efforts of the U.S.
18 Customs and Border Protection Agency to pre-
19 vent and investigate evasion;

20 (B) the number of allegations of evasion
21 received and the number of allegations of eva-
22 sion resulting in investigations by the U.S. Cus-
23 toms and Border Protection Agency or any
24 other agency;

1 (C) a summary of the completed investiga-
2 tions of evasion, including the number and na-
3 ture of the investigations initiated, conducted,
4 or completed, as well as their resolution;

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

8 (E) the amounts of antidumping and coun-
9 tervailing duties collected as a result of any in-
10 vestigations or other actions by the U.S. Cus-
11 toms and Border Protection Agency or any
12 other agency;

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

20 (G) a description of training conducted to
21 increase expertise and effectiveness in the pre-
22 vention and investigation of evasion; and

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

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

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

8 (C) identification of any changes since the
9 last report that have materially improved or re-
10 duced the effectiveness of the U.S. Customs
11 and Border Protection Agency to prevent and
12 investigate evasion;

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

20 (E) the processes and procedures for in-
21 creased cooperation and information sharing
22 with the Department of Commerce, U.S. Immi-
23 gration and Customs Enforcement, and any
24 other relevant Federal agencies to prevent and
25 investigate evasion; and

1 (F) identification of any recommended pol-
2 icy changes of other Federal agencies or legisla-
3 tive changes to improve the effectiveness of the
4 U.S. Customs and Border Protection Agency to
5 prevent and investigate evasion.

6 **SEC. 323. ADDRESSING CIRCUMVENTION BY NEW SHIP-**
7 **PERS.**

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

10 (1) by striking clause (iii);

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

12 and

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

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

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

4 “(I) the prices of such sales;

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

7 “(III) the timing of such sales;

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

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

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

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

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

3 **SEC. 401. PENALTIES FOR CUSTOMS BROKERS.**

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

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

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

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

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

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

17 (1) in subsection (g)(2)(B), by striking “Sec-
18 retary’s notice” and inserting “notice under sub-
19 paragraph (A)”; and

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

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

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

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

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

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

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

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

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

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

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

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

6 (1) in the subsection heading, by inserting
7 “AND REMITTANCE” after “COLLECTION”;

8 (2) in paragraph (3)—

9 (A) by inserting “required to be collected
10 under such paragraph” after “shall remit those
11 fees”; and

12 (B) by striking “31 days after the close of
13 the calendar quarter in which the fees are col-
14 lected” and inserting “30 days after the end of
15 the month in which the fees are required to be
16 collected”; and

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

18 “(5) The refund of any fee collected under sub-
19 section (a)(5) shall not be payable from the Customs
20 User Fee Account.

21 “(6)(A) A person who collects fees under para-
22 graph (1) or (2) and does not remit those fees to the
23 Secretary of the Treasury as required by paragraph
24 (3) shall be subject to a penalty in accordance with
25 the requirements of this paragraph.

1 “(B) The amount of such penalty shall be equal
2 to 2 times the amount of the fee that was required
3 to be remitted to the Secretary of the Treasury. The
4 Secretary of the Treasury may establish and impose
5 additional penalties through rulemaking for failure
6 to comply with any provision of this subsection.

7 “(C) Any penalty collected under this para-
8 graph shall be used to directly reimburse each ap-
9 propriation for the amount paid out of that appro-
10 priation for the costs described in subsection
11 (f)(3)(A).”.

12 (b) **EFFECTIVE DATE.**—The amendments made by
13 subsection (a) take effect on the date of enactment of this
14 Act and apply with respect to fees that are required to
15 be collected and remitted to the Secretary of the Treasury
16 under section 13031(d) of the Consolidated Omnibus
17 Budget Reconciliation Act of 1985, as amended by sub-
18 section (a), on or after such date of enactment.

19 **SEC. 404. DRAWBACK AND REFUNDS.**

20 (a) **ARTICLES MADE FROM IMPORTED MERCHAN-**
21 **DISE.**—Section 313(a) of the Tariff Act of 1930 (19
22 U.S.C. 1313(a)) is amended—

23 (1) by striking “under customs supervision”;
24 and

1 (2) by inserting “as calculated under subsection
2 (r)(4)(A),” after “less 1 per centum of such du-
3 ties,”.

4 (b) SUBSTITUTION FOR DRAWBACK PURPOSES.—
5 Section 313(b) of the Tariff Act of 1930 (19 U.S.C.
6 1313(b)) is amended—

7 (1) by striking “If imported” and inserting the
8 following:

9 “(1) IN GENERAL.—If imported”;

10 (2) by striking “and any other merchandise
11 (whether imported or domestic) of the same kind
12 and quality” and inserting “and substitute merchan-
13 dise”;

14 (3) by striking “three years” and inserting “5
15 years”;

16 (4) by striking “the receipt of such imported
17 merchandise by the manufacturer or producer of
18 such articles” and inserting “the date of importation
19 of such imported merchandise by the importer”;

20 (5) by striking “under customs supervision”
21 each place it appears;

22 (6) by inserting after “merchandise used there-
23 in been imported,” the following: “as calculated
24 under subsection (r)(4)(A),”;

1 (7) by striking the period at the end and insert-
2 ing “, as calculated under subsection (r)(4)(A).”;
3 and

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

5 “(2) REQUIREMENTS RELATING TO TRANSFER
6 OF MERCHANDISE.—

7 “(A) MANUFACTURERS AND PRO-
8 DUCERS.—Drawback may be allowed under
9 paragraph (1) in the amount referred to under
10 paragraph (1) only if the manufacturer or pro-
11 ducer of articles has received the imported,
12 duty-paid merchandise or substitute merchan-
13 dise, directly or indirectly, of imported duty-
14 paid merchandise or substitute merchandise.

15 “(B) EXPORTERS AND DESTROYERS.—
16 Drawback may be allowed under paragraph (1)
17 in the amount referred to under paragraph (1)
18 only if the exporter or destroyer of articles has
19 received the manufactured or produced article
20 or substitute article, directly or indirectly, of a
21 substitute article.

22 “(C) EVIDENCE OF TRANSFER.—Transfers
23 of merchandise under subparagraph (A) and
24 transfers of articles under subparagraph (B)
25 may be evidenced by business records kept in

1 the normal course of business and no additional
2 certificates of transfer or manufacture shall be
3 required.”.

4 (c) MERCHANDISE NOT CONFORMING TO SAMPLE OR
5 SPECIFICATIONS.—Section 313(c) of the Tariff Act of
6 1930 (19 U.S.C. 1313(c)) is amended—

7 (1) in paragraph (1)—

8 (A) in the matter preceding subparagraph
9 (A), by striking “under the supervision of the
10 Customs Service”;

11 (B) in subparagraph (D)—

12 (i) by striking “3” and inserting “5”;

13 and

14 (ii) by striking “under the supervision
15 of the Customs Service”; and

16 (C) in the text immediately following sub-
17 paragraph (D), by inserting “as calculated
18 under subsection (r)(4)(A),” after “merchan-
19 dise,”; and

20 (2) in paragraph (2)—

21 (A) by striking “under the supervision of
22 the Customs Service”;

23 (B) by striking the last sentence and in-
24 serting the following: “Transfers of merchan-
25 dise may be evidenced by business records kept

1 in the normal course of business and no addi-
2 tional certificates of transfer shall be re-
3 quired.”.

4 (d) PROOF OF EXPORTATION.—Section 313(i) of the
5 Tariff Act of 1930 (19 U.S.C. 1313(i)) is amended to read
6 as follows:

7 “(i) PROOF OF EXPORTATION.—A person claiming
8 drawback under this section shall, as proof of exportation,
9 maintain the record of exportation entered in the auto-
10 mated export system of the United States Government or,
11 if the exporter is unable to use that system, records kept
12 in the normal course of business similar to the information
13 contained in such record of exportation.”.

14 (e) UNUSED MERCHANDISE DRAWBACK.—Section
15 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is
16 amended—

17 (1) in paragraph (1)(A)—

18 (A) by striking “3-year” and inserting “5-
19 year”; and

20 (B) by inserting “and before filing the
21 drawback claim” after “the date of importa-
22 tion”; and

23 (2) in paragraph (2)—

24 (A) in subparagraph (B)—

1 (i) by striking “3-year” and inserting
2 “5-year”;

3 (ii) by inserting “and before filing the
4 drawback claim” after “the imported mer-
5 chandise”; and

6 (iii) by striking “under customs su-
7 pervision”;

8 (B) in subparagraph (C)(ii)(II)—

9 (i) by inserting “, directly or indi-
10 rectly,” after “received”; and

11 (ii) by inserting “, tax, or fee” after
12 “duty”; and

13 (C) in the text immediately following sub-
14 paragraph (C)—

15 (i) by inserting “, as calculated under
16 subsection (r)(4),” after “under this sub-
17 section”; and

18 (ii) by adding at the end the fol-
19 lowing: “Merchandise shall be considered
20 to be received directly or indirectly from a
21 person who imported and paid any duty,
22 tax, or fee due on the imported merchan-
23 dise if the recipient received any imported
24 merchandise, any other merchandise
25 (whether imported or domestic), or any

1 combination of imported merchandise and
2 such other merchandise, from the importer
3 through a transfer directly to the recipient,
4 or a transfer from the importer through
5 one or more intermediate transfers involv-
6 ing one or more parties of any combination
7 of imported merchandise or such other
8 merchandise. Transfers of merchandise
9 may be evidenced by business records kept
10 in the normal course of business and no
11 additional certificates of transfer shall be
12 required.”.

13 (f) CERTIFICATE OF DELIVERY.—Section 313 of the
14 Tariff Act of 1930 (19 U.S.C. 1313) is amended by strik-
15 ing subsection (k).

16 (g) REGULATIONS.—Section 313(l) of the Tariff Act
17 of 1930 (19 U.S.C. 1313(l)) is amended by striking “and
18 the designation of the person to whom any refund or pay-
19 ment of drawback shall be made” and inserting “and the
20 authority to require that all drawback entries be filed elec-
21 tronically”.

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

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

4 (2) the text immediately following paragraph
5 (3)(A)(ii), by striking “Commissioner of Customs”
6 and inserting “Commissioner of U.S. Customs and
7 Border Protection”.

8 (i) PACKAGING MATERIAL.—Section 313(q)(3) of the
9 Tariff Act of 1930 (19 U.S.C. 1313(q)(3)) is amended by
10 striking “they contain” and inserting “it contains”.

11 (j) FILING AND CALCULATION OF DRAWBACK
12 CLAIMS.—Section 313(r) of the Tariff Act of 1930 (19
13 U.S.C. 1313(r)) is amended—

14 (1) in the heading, by inserting “AND CAL-
15 CULATION OF” after “FILING”;

16 (2) in paragraph (1)—

17 (A) by striking the first sentence and in-
18 serting the following: “A drawback entry shall
19 be filed or applied for, as applicable, not later
20 than 5 years after the date on which merchan-
21 dise on which drawback is claimed was im-
22 ported. If merchandise summarized on an entry
23 summary line item with respect to which draw-
24 back is claimed was imported on more than one
25 date, the earliest date of importation of the

1 merchandise contained on that entry summary
2 line item shall be used for purposes of this
3 paragraph.”;

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

6 (C) in the third sentence, by striking “the
7 Customs Service” and inserting “U.S. Customs
8 and Border Protection”;

9 (3) in paragraph (3)(A)—

10 (A) in the matter preceding clause (i), by
11 striking “The Customs Service” and inserting
12 “U.S. Customs and Border Protection”; and

13 (B) in clauses (i) and (ii), by striking “the
14 Customs Service” each place it appears and in-
15 serting “U.S. Customs and Border Protection”;
16 and

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

18 “(4) The amount used for purposes of determining
19 a drawback entry for refund filed under subsection (a),
20 (b), or (c) shall equal the amount determined by multi-
21 plying—

22 “(A) the amount determined by dividing—

23 “(i) the total amount of duties, taxes, and
24 fees on the entry summary line item under
25 which imported merchandise is reported; by

1 “(ii) the number of units of imported mer-
2 chandise; and

3 “(B) the number of units of imported merchan-
4 dise claimed for drawback.”.

5 (k) DRAWBACKS FOR RECOVERED MATERIALS.—
6 Section 313(x) of the Tariff Act of 1930 (19 U.S.C.
7 1313(x)) is amended by striking “and (c)” and inserting
8 “(c), and (j)”.

9 (l) DEFINITIONS.—Section 313 of the Tariff Act of
10 1930 (19 U.S.C. 1313) is amended by adding at the end
11 the following:

12 “(z) DEFINITIONS.—In this section:

13 “(1) DIRECTLY.—The term ‘directly’ means a
14 transfer of merchandise or an article from 1 person
15 to another person without any intermediate transfer.

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

18 “(3) INDIRECTLY.—The term ‘indirectly’ means
19 a transfer of merchandise or an article from 1 per-
20 son to another person with 1 or more intermediate
21 transfers.

22 “(4) SCHEDULE B.—The term ‘Schedule B’
23 means the Department of Commerce Schedule B,
24 Statistical Classification of Domestic and Foreign
25 Commodities Exported from the United States.

1 “(5) SUBSTITUTE MERCHANDISE; SUBSTITUTE
2 ARTICLE.—The terms ‘substitute merchandise’ and
3 ‘substitute article’ mean—

4 “(A) a good that is classifiable within the
5 same 8-digit HTS subheading number as an
6 other good (the Schedule B number may be
7 used to demonstrate this fact) whether im-
8 ported or domestic; or

9 “(B) a good demonstrated to have been
10 classifiable within the same 8-digit HTS sub-
11 heading number as another good at some point
12 during the 5-year period beginning on the date
13 of importation of the designated imported mer-
14 chandise (the Schedule B number may be used
15 to demonstrate this fact) whether imported or
16 domestic.”.

17 (m) EFFECTIVE DATE.—

18 (1) IN GENERAL.—The amendments made by
19 this section shall—

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

22 (B) except as provided in paragraph (2),
23 apply to drawback claims filed with respect to
24 merchandise that enters the United States on
25 or after such date of enactment.

1 (2) TRANSITION RULE.—During the 2-year pe-
2 riod beginning on the date described in paragraph
3 (1)(A), a person may elect to file a claim for draw-
4 back under—

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

7 (B) section 313 of the Tariff Act of 1930,
8 as in effect on the day before the date described
9 in paragraph (1)(A).

10 (n) GOVERNMENT ACCOUNTABILITY OFFICE RE-
11 PORT.—Not later than one year after the date of enact-
12 ment of this Act, the Comptroller General of the United
13 States shall submit to the Committee on Ways and Means
14 of the House of Representatives and the Committee on
15 Finance of the Senate a report that contains—

16 (1) a description of the implementation of sec-
17 tion 313 of the Tariff Act of 1930 (19 U.S.C.
18 1313), as amended by this section;

19 (2) an evaluation of the modernization of draw-
20 back and refunds under subsection (b) of section
21 313 of such Act (relating to substitution for draw-
22 back purposes), as amended by this section;

23 (3) an evaluation of extending the moderniza-
24 tion of drawback and refunds to subsection (j) of

1 section 313 of such Act (relating to unused mer-
2 chandise drawback), as amended by this section; and

3 (4) recommendations for the processing of
4 drawback claims under the Automated Commercial
5 Environment computer system authorized under sec-
6 tion 13031(f)(5) of the Consolidated Omnibus Budg-
7 et and Reconciliation Act of 1985 (19 U.S.C.
8 58c(f)(5)).

9 **SEC. 405. AMENDMENTS TO CHAPTER 98 OF THE HAR-**
10 **MONIZED TARIFF SCHEDULE OF THE UNITED**
11 **STATES.**

12 (a) ARTICLES EXPORTED AND RETURNED, AD-
13 VANCED OR IMPROVED ABROAD.—

14 (1) IN GENERAL.—U.S. Note 3 to subchapter
15 II of chapter 98 of the Harmonized Tariff Schedule
16 of the United States is amended by adding at the
17 end the following:

18 “(f)(i) For purposes of subheadings 9802.00.40
19 and 9802.00.50, fungible goods exported from the
20 United States for the purposes described in such
21 subheadings—

22 “(A) may be commingled; and

23 “(B) the origin, value, and classification of
24 such goods may be accounted for using an in-
25 ventory management method.

1 “(ii) If a person chooses to use an inventory
2 management method under this paragraph with re-
3 spect to fungible goods, the person shall use the
4 same inventory management method for any other
5 goods with respect to which the person claims
6 fungibility under this paragraph.

7 “(iii) For the purposes of this paragraph—

8 “(A) the term ‘fungible good’ means any
9 good that is commercially interchangeable with
10 another good and that has properties that are
11 essentially identical to the properties of another
12 good; and

13 “(B) the term ‘inventory management
14 method’ means any method for managing inven-
15 tory that is based on generally accepted ac-
16 counting principles.”.

17 (2) EFFECTIVE DATE.—The amendment made
18 by this subsection applies to articles classifiable
19 under subheading 9802.00.40 or 9802.00.50 of the
20 Harmonized Tariff Schedule of the United States
21 that are entered, or withdrawn from warehouse for
22 consumption, on or after the date that is 60 days
23 after the date of the enactment of this Act.

24 (b) MODIFICATION OF PROVISIONS RELATING TO
25 RETURNED PROPERTY.—

1 (1) IN GENERAL.—The article description for
 2 heading 9801.00.10 of the Harmonized Tariff
 3 Schedule of the United States is amended by insert-
 4 ing after “exported” the following: “, or any other
 5 products when returned within 3 years after having
 6 been exported”.

7 (2) EFFECTIVE DATE.—The amendment made
 8 by paragraph (1) applies to goods entered, or with-
 9 drawn from warehouse for consumption, on or after
 10 the 15th day after the date of the enactment of this
 11 Act.

12 (c) DUTY FREE TREATMENT FOR CERTAIN UNITED
 13 STATES GOVERNMENT PROPERTY RETURNED TO THE
 14 UNITED STATES.—

15 (1) IN GENERAL.—Subchapter I of chapter 98
 16 of the Harmonized Tariff Schedule of the United
 17 States is amended by inserting in numerical se-
 18 quence the following new heading:

“	9801.00.11	United States Government property, returned to the United States without having been advanced in value or improved in condition by any means while abroad, entered by the United States Government or a contractor to the United States Government, and certified by the importer as United States Government property	Free	”.
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19 (2) EFFECTIVE DATE.—The amendment made
 20 by paragraph (1) applies to goods entered, or with-

1 drawn from warehouse for consumption, on or after
2 the 15th day after the date of the enactment of this
3 Act.

4 **TITLE V—OTHER TRADE** 5 **AGENCIES**

6 **SEC. 501. UNITED STATES INTERNATIONAL TRADE COMMIS-** 7 **SION.**

8 (a) FISCAL YEAR 2013.—There are authorized to be
9 appropriated for the salaries and expenses of the United
10 States International Trade Commission not to exceed
11 \$82,800,000 for fiscal year 2013.

12 (b) FISCAL YEARS 2014 AND 2015.—Section
13 330(e)(2)(A) of the Tariff Act of 1930 (19 U.S.C.
14 1330(e)(2)(A)) is amended by striking clauses (i) and (ii)
15 and inserting the following:

16 “(i) \$86,800,000 for fiscal year 2014.

17 “(ii) \$88,900,000 for fiscal year
18 2015.”.

19 **SEC. 502. OFFICE OF THE UNITED STATES TRADE REP-** 20 **RESENTATIVE.**

21 (a) FISCAL YEAR 2013.—There are authorized to be
22 appropriated for the salaries and expenses of the Office
23 of the United States Trade Representative not to exceed
24 \$51,300,000 for fiscal year 2013.

1 (b) ANNUAL REPORT ON TRADE AGREEMENTS PRO-
2 GRAM AND NATIONAL TRADE POLICY AGENDA.—Section
3 163(a) of the Trade Act of 1974 (19 U.S.C. 2213(a)) is
4 amended—

5 (1) in paragraph (1)—

6 (A) in subparagraph (A), by striking
7 “and” at the end;

8 (B) in subparagraph (B), by striking the
9 period at the end and inserting a semicolon;
10 and

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

12 “(C) the operation of all United States
13 Trade Representative-led interagency programs
14 during the preceding year and for the year in
15 which the report is submitted.”; and

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

17 “(4) The report shall include, with respect to
18 the matters referred to in paragraph (1)(C), infor-
19 mation regarding—

20 “(A) the objectives and priorities of all
21 United States Trade Representative-led inter-
22 agency programs for the year, and the reasons
23 therefor;

24 “(B) the actions proposed, or anticipated,
25 to be undertaken during the year to achieve

1 such objectives and priorities, including actions
2 authorized under the trade laws and negotia-
3 tions with foreign countries;

4 “(C) the role of each Federal agency par-
5 ticipating in the interagency program in achiev-
6 ing such objectives and priorities and activities
7 of each agency with respect to their participa-
8 tion in the program;

9 “(D) the United States Trade Representa-
10 tive’s coordination of each participating Federal
11 agency to more effectively achieve such objec-
12 tives and priorities;

13 “(E) any proposed legislation necessary or
14 appropriate to achieve any of such objectives or
15 priorities; and

16 “(F) the progress that was made during
17 the preceding year in achieving such objectives
18 and priorities and coordination activities in-
19 cluded in the statement provided for such year
20 under this paragraph.”.

21 (c) RESOURCE MANAGEMENT AND STAFFING
22 PLANS.—

23 (1) ANNUAL PLAN.—

1 (A) IN GENERAL.—The United States
2 Trade Representative shall on an annual basis
3 develop a plan—

4 (i) to match available resources of the
5 Office of the United States Trade Rep-
6 resentative to projected workload and pro-
7 vide a detailed analysis of how the funds
8 allocated from the prior fiscal year to date
9 have been spent;

10 (ii) to identify existing staff of the Of-
11 fice and new staff that will be necessary to
12 support the trade negotiation and enforce-
13 ment functions and powers of the Office
14 (including those of the Trade Policy Staff
15 Committee) as described in section 141 of
16 the Trade Act of 1974 (19 U.S.C. 2171)
17 and section 301 of the Trade Act of 1974
18 (19 U.S.C. 2411);

19 (iii) to identify existing staff of the
20 Office and staff of other Federal agencies
21 who will be required to be detailed to sup-
22 port United States Trade Representative-
23 led interagency programs, including any
24 associated expenses; and

1 (iv) to provide a detailed analysis of
2 the budgetary requirements of United
3 States Trade Representative-led inter-
4 agency programs for the next fiscal year
5 and provide a detailed analysis of how the
6 funds allocated from the prior fiscal year
7 to date have been spent.

8 (B) REPORT.—The United States Trade
9 Representative shall submit to the Committee
10 on Ways and Means and the Committee on Ap-
11 propriations of the House of Representatives
12 and the Committee on Finance and the Com-
13 mittee on Appropriations of the Senate a report
14 that contains the plan required under subpara-
15 graph (A). The report required under this sub-
16 paragraph shall be submitted in conjunction
17 with the annual budget of the United States
18 Government required to be submitted to Con-
19 gress under section 1105 of title 31, United
20 States Code.

21 (2) QUADRENNIAL PLAN.—

22 (A) IN GENERAL.—Pursuant to the goals
23 and objectives of the strategic plan of the Office
24 of the United States Trade Representative as
25 required under section 306 of title 5, United

1 States Code, the United States Trade Rep-
2 resentative shall every 4 years develop a plan—

3 (i) to analyze internal quality controls
4 and record management of the Office;

5 (ii) to identify existing staff of the Of-
6 fice and new staff that will be necessary to
7 support the trade negotiation and enforce-
8 ment functions and powers of the Office
9 (including those of the Trade Policy Staff
10 Committee) as described in section 141 of
11 the Trade Act of 1974 (19 U.S.C. 2171)
12 and section 301 of the Trade Act of 1974
13 (19 U.S.C. 2411);

14 (iii) to identify existing staff of the
15 Office and staff in other Federal agencies
16 who will be required to be detailed to sup-
17 port United States Trade Representative-
18 led interagency programs, including any
19 associated expenses;

20 (iv) to provide an outline of budget
21 justifications, including salaries and ex-
22 penses as well as non-personnel adminis-
23 trative expenses, for the fiscal years re-
24 quired under the strategic plan; and

1 (v) to provide an outline of budget
2 justifications, including salaries and ex-
3 penses as well as non-personnel adminis-
4 trative expenses, for United States Trade
5 Representative-led interagency programs
6 for the fiscal years required under the
7 strategic plan.

8 (B) REPORT.—

9 (i) IN GENERAL.—The United States
10 Trade Representative shall submit to the
11 Committee on Ways and Means and the
12 Committee on Appropriations of the House
13 of Representatives and the Committee on
14 Finance and the Committee on Appropria-
15 tions of the Senate a report that contains
16 the plan required under subparagraph (A).
17 Except as provided in clause (ii), the re-
18 port required under this clause shall be
19 submitted in conjunction with the strategic
20 plan of the Office as required under sec-
21 tion 306 of title 5, United States Code.

22 (ii) EXCEPTION.—The United States
23 Trade Representative shall submit to the
24 congressional committees specified in
25 clause (i) an initial report that contains

1 the plan required under subparagraph (A)
2 not later than February 1, 2013.

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