

113TH CONGRESS
1ST SESSION

S. 662

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

IN THE SENATE OF THE UNITED STATES

MARCH 22, 2013

Mr. BAUCUS (for himself and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

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

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

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

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Trade Facilitation and Trade Enforcement Reauthoriza-
6 tion Act of 2013”.

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 ORGANIZATION

Subtitle A—Functions Other Than Investigative Functions

- Sec. 101. Establishment of U.S. Customs and Border Protection Agency; Commissioner.
- Sec. 102. Officers and employees.
- Sec. 103. Separate budget requests 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. Personnel.
- Sec. 111. Authorization of appropriations.

Subtitle B—Investigative Functions

- Sec. 121. Establishment of U.S. Immigration and Customs Enforcement Agency.
- Sec. 122. Separate budget requests for U.S. Immigration and Customs Enforcement Agency.
- Sec. 123. Undercover investigative operations.
- Sec. 124. Authorization of appropriations.

Subtitle C—Joint Strategic Plan on Trade Facilitation and Trade Enforcement

- Sec. 131. Joint strategic plan on trade facilitation and trade enforcement.

TITLE II—TRADE FACILITATION, TRADE ENFORCEMENT, AND TRANSPARENCY

Subtitle A—Trade Facilitation and Transparency

- Sec. 201. Improving partnership programs.
- Sec. 202. Trade facilitation partnership program.
- Sec. 203. Centers of Excellence and Expertise.
- Sec. 204. Mutual recognition agreements.
- Sec. 205. Customs Operations Advisory Committee.
- Sec. 206. Automated Commercial Environment computer system.
- Sec. 207. International Trade Data System.
- Sec. 208. Electronic submission of public comments.

Subtitle B—Trade Enforcement

CHAPTER 1—COMMERCIAL TARGETING

- Sec. 211. Commercial Targeting Division and National Targeting and Analysis Groups.
- Sec. 212. Annual illegal drug control law enforcement strategy.
- Sec. 213. Report on oversight of revenue protection and enforcement measures by the inspector general.
- Sec. 214. Report on security and revenue measures with respect to merchandise transported in bond.
- Sec. 215. Importer of record program.

CHAPTER 2—IMPORT HEALTH AND SAFETY

- Sec. 221. Interagency Import Safety Working Group.
- Sec. 222. Joint import safety rapid response plan.
- Sec. 223. Training.

CHAPTER 3—IMPORT-RELATED PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

SUBCHAPTER A—NATIONAL INTELLECTUAL PROPERTY RIGHTS COORDINATION CENTER

- Sec. 231. National Intellectual Property Rights Coordination Center.

SUBCHAPTER B—AMENDMENTS TO THE TARIFF ACT OF 1930

- Sec. 241. Provision to rights owners of information about and samples of merchandise suspected of infringing trademarks or copyrights.
- Sec. 242. Enforcement by the U.S. Customs and Border Protection Agency of works for which a copyright registration is pending.
- Sec. 243. Seizure of circumvention devices.

SUBCHAPTER C—OTHER MATTERS

- Sec. 251. Definition of intellectual property rights.
- Sec. 252. Joint strategic plan for the enforcement of intellectual property rights.
- Sec. 253. Personnel dedicated to the enforcement of intellectual property rights.
- Sec. 254. Training with respect to the enforcement of intellectual property rights.
- Sec. 255. Information for travelers regarding violations of intellectual property rights.
- Sec. 256. International cooperation and information sharing.
- Sec. 257. Sense of Congress regarding recordation process.
- Sec. 258. Report on intellectual property rights enforcement.

CHAPTER 4—COORDINATION OF TRADE ENFORCEMENT PRIORITIES

- Sec. 261. Establishment of priority trade enforcement coordination centers.

TITLE III—EVASION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS

- Sec. 301. Short title.
- Sec. 302. Procedures for investigating claims of evasion of antidumping and countervailing duty orders.
- Sec. 303. Annual report on prevention and investigation of evasion of anti-dumping and countervailing duty orders.

TITLE IV—MISCELLANEOUS PROVISIONS

- Sec. 401. Consultation on trade and customs revenue functions.
- Sec. 402. Drawback simplification.
- Sec. 403. Penalties for customs brokers.
- Sec. 404. Amendments to chapter 98 of the Harmonized Tariff Schedule of the United States.
- Sec. 405. Charter flights.
- Sec. 406. Pilot program to designate additional 24-hour commercial ports of entry.

Sec. 407. Elimination of consumptive demand exception to prohibition on importation of goods made with convict labor, forced labor, or indentured labor; report.

Sec. 408. Honey transshipment.

Sec. 409. Contraband archaeological or ethnological materials.

Sec. 410. De minimis value and entry under regulations.

Sec. 411. Repeal of authority of U.S. Customs and Border Protection Agency to enter into certain reimbursable fee agreements.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **COMMERCIAL OPERATIONS.**—The term
4 “commercial operations”, with respect to the U.S.
5 Customs and Border Protection Agency, means the
6 operations described in section 1(c)(2) of the Act of
7 March 3, 1927 (44 Stat. 1381, chapter 348; 19
8 U.S.C. 2071), as amended by section 101 of this
9 Act.

10 (2) **COMMISSIONER.**—The term “Commis-
11 sioner” means the Commissioner of U.S. Customs
12 and Border Protection (as established under section
13 1 of the Act of March 3, 1927 (44 Stat. 1381, chap-
14 ter 348; 19 U.S.C. 2071), as amended by section
15 101 of this Act).

16 (3) **CUSTOMS OPERATIONS ADVISORY COM-
17 MITTEE.**—The term “Customs Operations Advisory
18 Committee” means the Advisory Committee estab-
19 lished under section 205 of this Act or any successor
20 committee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (A) an importer;
2 (B) an exporter;
3 (C) a forwarder;
4 (D) an air, sea, or land carrier or shipper;
5 (E) a contract logistics provider;
6 (F) a customs broker; or
7 (G) any other person (other than an em-
8 ployee of a government) involved in the impor-
9 tation or exportation of merchandise into or out
10 of the United States.

11 (7) TRADE ENFORCEMENT.—The term “trade
12 enforcement” means the enforcement of the customs
13 and trade laws of the United States.

14 (8) TRADE FACILITATION.—The term “trade
15 facilitation” refers to policies and activities of the
16 U.S. Customs and Border Protection Agency with
17 respect to facilitating the movement of merchandise
18 into and out of the United States in a manner that
19 complies with the customs and trade laws of the
20 United States.

21 (9) TRADE SUPPORT NETWORK.—The term
22 “Trade Support Network” means the network of
23 private sector entities that provide input on the de-
24 velopment of modernization projects of the U.S.
25 Customs and Border Protection Agency.

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

5 **SEC. 101. ESTABLISHMENT OF U.S. CUSTOMS AND BORDER**
6 **PROTECTION AGENCY; COMMISSIONER.**

7 (a) IN GENERAL.—The first section of the Act of
8 March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C.
9 2071), is amended to read as follows:

10 **“SECTION 1. ESTABLISHMENT OF U.S. CUSTOMS AND BOR-**
11 **DER PROTECTION AGENCY; COMMISSIONER.**

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

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

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

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

1 “(3) report directly to the Secretary of Home-
2 land Security.

3 “(c) DUTIES.—

4 “(1) IN GENERAL.—The duties of the Commis-
5 sioner shall include—

6 “(A) coordinating and integrating the se-
7 curity, trade facilitation, and trade enforcement
8 functions of the U.S. Customs and Border Pro-
9 tection Agency;

10 “(B) directing the administration of the
11 commercial operations as described in para-
12 graph (2) and the noncommercial operations of
13 the Agency;

14 “(C) otherwise safeguarding the homeland
15 security interests of the United States;

16 “(D) ensuring that the overall economic se-
17 curity of the United States is not diminished by
18 efforts, activities, and programs aimed at secur-
19 ing the homeland (as defined in section 2 of the
20 Homeland Security Act of 2002 (6 U.S.C.
21 101)); and

22 “(E) carrying out the duties and powers
23 prescribed by law and such other duties as the
24 Secretary of Homeland Security or the Sec-

1 retary of the Treasury, as appropriate, may as-
2 sign.

3 “(2) COMMERCIAL OPERATIONS.—The commer-
4 cial operations of the U.S. Customs and Border Pro-
5 tection Agency shall include—

6 “(A) administering any customs revenue
7 function (as defined in section 415 of the
8 Homeland Security Act of 2002 (6 U.S.C.
9 215));

10 “(B) coordinating efforts of the Depart-
11 ment of Homeland Security with respect to
12 trade facilitation and, as appropriate, trade en-
13 forcement;

14 “(C) coordinating with the Director of
15 U.S. Immigration and Customs Enforcement
16 with respect to—

17 “(i) investigations relating to trade
18 enforcement; and

19 “(ii) the development and implementa-
20 tion of the joint strategic plan on trade fa-
21 cilitation and trade enforcement required
22 under section 123A of the Customs and
23 Trade Act of 1990;

24 “(D) coordinating, on behalf of the De-
25 partment of Homeland Security, efforts among

1 Federal agencies with respect to trade facilita-
2 tion and, as appropriate, trade enforcement, in-
3 cluding representing the Department of Home-
4 land Security in interagency fora addressing
5 such efforts;

6 “(E) coordinating the efforts of the U.S.
7 Customs and Border Protection Agency with
8 the efforts of customs authorities of foreign
9 countries to facilitate international trade and
10 enforce customs and trade laws;

11 “(F) collecting, assessing, and dissemi-
12 nating information as appropriate and in ac-
13 cordance with law, regarding cargo destined for
14 the United States, to enhance trade facilitation
15 and, as appropriate, trade enforcement; and

16 “(G) otherwise advising the Secretary of
17 Homeland Security with respect to the develop-
18 ment of policies associated with trade facilita-
19 tion and, as appropriate, trade enforcement.

20 “(d) CONSULTATIONS.—

21 “(1) RESOURCE NEEDS.—In carrying out the
22 duties described in subsection (c), the Commissioner
23 shall consult with the Committee on Finance and
24 Committee on Appropriations of the Senate and the
25 Committee on Ways and Means and the Committee

1 on Appropriations of the House of Representatives
2 on a regular and timely basis regarding the resource
3 needs of the U.S. Customs and Border Protection
4 Agency to safeguard the economic security interests
5 of the United States at land borders and ports of
6 entry.

7 “(2) INTERNATIONAL NEGOTIATIONS.—The
8 Commissioner shall consult with the Committee on
9 Finance of the Senate and the Committee on Ways
10 and Means of the House of Representatives on a
11 regular and timely basis regarding the status and
12 substance of international negotiations relating to
13 the customs and trade laws of the United States, or
14 of foreign countries, in which personnel of the U.S.
15 Customs and Border Protection Agency are partici-
16 pating.

17 “(3) PRIVATE SECTOR INPUT.—In carrying out
18 the duties described in subsection (c), the Commis-
19 sioner shall solicit and consider on a regular basis
20 input from private sector entities, including the Cus-
21 toms Operations Advisory Committee, the Trade
22 Support Network, and other entities affected by the
23 efforts of the Federal Government relating to trade
24 facilitation and trade enforcement, with respect to—

1 “(A) the implementation of new or amend-
2 ed customs and trade laws; and

3 “(B) the development, implementation, or
4 revision of policies or regulations administered
5 by the U.S. Customs and Border Protection
6 Agency.

7 “(e) COMPENSATION.—The Commissioner shall be
8 compensated at the rate of pay for level III of the Execu-
9 tive Schedule as provided in section 5314 of title 5, United
10 States Code.

11 “(f) ABSENCE OR DISABILITY OF COMMISSIONER.—
12 The Deputy Commissioner for Trade, appointed pursuant
13 to section 2, shall act as Commissioner during the absence
14 or disability of the Commissioner or in the event that the
15 position of Commissioner is vacant.

16 “(g) DEFINITIONS.—In this Act, the terms ‘Customs
17 Operations Advisory Committee’, ‘customs and trade laws
18 of the United States’, ‘private sector entity’, ‘trade en-
19 forcement’, ‘trade facilitation’, and ‘Trade Support Net-
20 work’ have the meanings given those terms in section 2
21 of the Trade Facilitation and Trade Enforcement Reau-
22 thorization Act of 2013.”.

23 (b) ADMINISTRATIVE CONTINUITY.—The Act of
24 March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C.

1 2071 et seq.), is amended by striking section 3 (19 U.S.C.
2 2073) and all that follows and inserting the following:

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

5 “(a) IN GENERAL.—Section 411 of the Homeland
6 Security Act of 2002 (6 U.S.C. 211) is repealed, and the
7 functions and associated personnel, assets, and liabilities,
8 identified under such section 411 on the day before the
9 date of the enactment of the Trade Facilitation and Trade
10 Enforcement Reauthorization Act of 2013 are transferred
11 to the U.S. Customs and Border Protection Agency.

12 “(b) CONTINUATION IN OFFICE.—The individual
13 serving as Commissioner of Customs in the Department
14 of Homeland Security on the day before the date of the
15 enactment of the Trade Facilitation and Trade Enforce-
16 ment Reauthorization Act of 2013 may serve as the Com-
17 missioner of the U.S. Customs and Border Protection
18 Agency established under section 1 until the earlier of—

19 “(1) the date on which that individual is no
20 longer eligible to serve as Commissioner of Customs;
21 or

22 “(2) the date on which an individual nominated
23 by the President to be the Commissioner of U.S.
24 Customs and Border Protection is confirmed by the
25 Senate.”.

1 (c) CONFORMING AMENDMENTS.—

2 (1) TITLE 5.—Section 5314 of title 5, United
3 States Code, is amended by striking “Commissioner
4 of Customs, Department of Homeland Security.”
5 and inserting “Commissioner of U.S. Customs and
6 Border Protection, Department of Homeland Secu-
7 rity.”.

8 (2) TABLE OF CONTENTS.—The table of con-
9 tents for the Homeland Security Act of 2002 is
10 amended by striking the item relating to section 411
11 and inserting the following:

“Sec. 411. [Reserved].”.

12 **SEC. 102. OFFICERS AND EMPLOYEES.**

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

16 **“SEC. 2. DEPUTY COMMISSIONERS; TRADE ADVOCATE;
17 OTHER OFFICERS.**

18 “(a) ESTABLISHMENT OF DEPUTY COMMIS-
19 SIONERS.—

20 “(1) IN GENERAL.—There shall be in the U.S.
21 Customs and Border Protection Agency established
22 under section 1 not more than 3 and not fewer than
23 2 deputy commissioners, each of whom shall report
24 directly to the Commissioner.

1 “(2) SENIOR EXECUTIVE SERVICE POSITION.—

2 The position of a deputy commissioner established
3 under paragraph (1) shall be a Senior Executive
4 Service position (as defined in section 3132(a) of
5 title 5, United States Code).

6 “(b) DEPUTY COMMISSIONER FOR TRADE.—

7 “(1) IN GENERAL.—One of the deputy commis-
8 sioners established under subsection (a)(1) shall be
9 the Deputy Commissioner for Trade.

10 “(2) DUTIES.—The duties of the Deputy Com-
11 missioner for Trade shall include—

12 “(A) overseeing the commercial operations
13 of the U.S. Customs and Border Protection
14 Agency (as described in section 1(c)(2));

15 “(B) overseeing the Office of Trade estab-
16 lished under section 4 and the Office of Inter-
17 national Affairs established under section 5;

18 “(C) overseeing the development and im-
19 plementation of all policies and regulations ad-
20 ministered by the Agency pursuant to the cus-
21 toms and trade laws of the United States;

22 “(D) coordinating the establishment of
23 standards and policies for developing, deliv-
24 ering, and evaluating training programs for

1 personnel of the Agency with responsibility for
2 trade facilitation and trade enforcement;

3 “(E) overseeing the development and im-
4 plementation of information technology, re-
5 search, and communication functions, including
6 automation and modernization strategies, that
7 support the commercial operations of the Agen-
8 cy, including the implementation of the Auto-
9 mated Commercial Environment computer sys-
10 tem authorized under section 13031(f)(5) of the
11 Consolidated Omnibus Budget and Reconcili-
12 ation Act of 1985 (19 U.S.C. 58c(f)(5)); and

13 “(F) overseeing the administration of the
14 financial management activities of the Agency,
15 including accounting, budgeting, procurement,
16 logistics, financial systems, policy, planning,
17 and audit oversight.

18 “(3) QUALIFICATIONS.—An individual ap-
19 pointed to be the Deputy Commissioner for Trade
20 shall have a minimum of 10 years of professional ex-
21 perience in the operation of the customs and trade
22 laws of the United States, not less than 3 of which
23 shall involve either working with or for the private
24 sector on matters relating to trade facilitation or
25 trade enforcement.

1 “(4) ABSENCE OR DISABILITY OF DEPUTY COM-
2 MISSIONER FOR TRADE.—The Assistant Commis-
3 sioner of the Office of Trade, established under sec-
4 tion 4, shall act as the Deputy Commissioner for
5 Trade during the absence or disability of the Deputy
6 Commissioner for Trade or in the event that the po-
7 sition of Deputy Commissioner for Trade is vacant.

8 “(c) TRADE ADVOCATE.—

9 “(1) ESTABLISHMENT.—

10 “(A) IN GENERAL.—There shall be in the
11 office of the Commissioner a Trade Advocate,
12 who shall be appointed by and report directly to
13 the Commissioner.

14 “(B) SENIOR EXECUTIVE SERVICE POSI-
15 TION.—The position of Trade Advocate shall be
16 a Senior Executive Service position (as defined
17 in section 3132(a) of title 5, United States
18 Code).

19 “(2) DUTIES.—The duties of the Trade Advoca-
20 cate shall include—

21 “(A) developing and maintaining strategic
22 communications with private sector entities and
23 the public to enhance trade facilitation and
24 trade enforcement;

1 “(B) serving as the primary liaison be-
2 tween the U.S. Customs and Border Protection
3 Agency and private sector entities and the pub-
4 lic with respect to the Agency’s trade facilita-
5 tion and trade enforcement functions;

6 “(C) consulting with private sector entities,
7 including the Customs Operations Advisory
8 Committee and the Trade Support Network, for
9 their input with respect to—

10 “(i) the development, implementation,
11 and impact of policies and regulations ad-
12 ministered by the Agency;

13 “(ii) the development of the joint stra-
14 tegic plan on trade facilitation and trade
15 enforcement required under section 123A
16 of the Customs and Trade Act of 1990;

17 “(iii) the assessment of the effective-
18 ness of the trade facilitation and trade en-
19 forcement activities of the Agency;

20 “(iv) trade modernization activities,
21 including the development and implementa-
22 tion of the Automated Commercial Envi-
23 ronment computer system authorized
24 under section 13031(f)(5) of the Consoli-
25 dated Omnibus Budget and Reconciliation

1 Act of 1985 (19 U.S.C. 58c(f)(5)) and
2 support for the establishment of the Inter-
3 national Trade Data System under the
4 oversight of the Department of the Treas-
5 ury pursuant to section 411(d) of the Tar-
6 iff Act of 1930 (19 U.S.C. 1411(d));

7 “(v) the identification of private sec-
8 tor resources and capabilities that will sup-
9 plement the trade facilitation and trade en-
10 forcement activities of the Agency;

11 “(D) advising the Commissioner with re-
12 spect to the consultations described in subpara-
13 graph (C);

14 “(E) promoting existing public-private
15 partnerships and developing new public-private
16 partnerships to enhance the trade facilitation
17 and trade enforcement activities of the Agency;
18 and

19 “(F) otherwise consulting with private sec-
20 tor entities and the public as directed by the
21 Commissioner or by law.

22 “(3) QUALIFICATIONS.—An individual ap-
23 pointed to be the Trade Advocate shall have a min-
24 imum of 10 years of professional experience working
25 with the customs and trade laws of the United

1 States, not less than 3 of which shall have been
2 spent working in the private sector.

3 “(4) ELIMINATION OF OFFICE OF TRADE RELA-
4 TIONS.—

5 “(A) TRANSFER.—Not later than 30 days
6 after the date of the enactment of the Trade
7 Facilitation and Trade Enforcement Reauthor-
8 ization Act of 2013, the Secretary of Homeland
9 Security shall transfer the assets, functions,
10 personnel, and liabilities of the Office of Trade
11 Relations of the U.S. Customs and Border Pro-
12 tection Agency to the Trade Advocate estab-
13 lished under paragraph (1).

14 “(B) ELIMINATION.—Not later than 30
15 days after the date of the enactment of the
16 Trade Facilitation and Trade Enforcement Re-
17 uthorization Act of 2013, the Office of Trade
18 Relations shall be abolished.

19 “(C) LIMITATION ON FUNDS.—No funds
20 appropriated to the Agency or the Department
21 of Homeland Security may be used to transfer
22 the assets, functions, personnel, and liabilities
23 of the Office of Trade Relations to an office or
24 official other than the Trade Advocate estab-
25 lished under paragraph (1).

1 “(d) OTHER OFFICERS.—The Commissioner may ap-
2 point such other officers as are necessary to manage the
3 individual offices within the U.S. Customs and Border
4 Protection Agency. Any appointment of personnel under
5 this subsection shall be subject to the provisions of the
6 civil service laws, and the salaries shall be fixed in accord-
7 ance with chapter 51 and subchapter III of chapter 53
8 of title 5, United States Code.”.

9 (b) TRADE OFFICES AND FUNCTIONS.—The Act of
10 March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C.
11 2071 et seq.), is amended by adding at the end the fol-
12 lowing:

13 **“SEC. 4. OFFICE OF TRADE.**

14 “(a) ESTABLISHMENT OF OFFICE OF TRADE.—
15 There shall be in the U.S. Customs and Border Protection
16 Agency an Office of Trade, which shall be headed by an
17 Assistant Commissioner for Trade.

18 “(b) TRANSFER OF ASSETS, FUNCTION, AND PER-
19 SONNEL; ELIMINATION OF OFFICES.—

20 “(1) OFFICE OF INTERNATIONAL TRADE.—

21 “(A) TRANSFER.—Not later than 30 days
22 after the date of the enactment of the Trade
23 Facilitation and Trade Enforcement Reauthor-
24 ization Act of 2013, the Secretary of Homeland
25 Security shall transfer the assets, functions,

1 personnel, and liabilities of the Office of Inter-
2 national Trade to the Office of Trade estab-
3 lished under subsection (a).

4 “(B) ELIMINATION.—Not later than 30
5 days after the date of the enactment of the
6 Trade Facilitation and Trade Enforcement Re-
7 authorization Act of 2013, the Office of Inter-
8 national Trade shall be abolished.

9 “(C) LIMITATION ON FUNDS.—No funds
10 appropriated to the U.S. Customs and Border
11 Protection Agency or the Department of Home-
12 land Security may be used to transfer the as-
13 sets, functions, personnel, and liabilities of the
14 Office of International Trade to an office other
15 than the Office of Trade established under sub-
16 section (a).

17 “(D) OFFICE OF INTERNATIONAL TRADE
18 DEFINED.—In this paragraph, the term ‘Office
19 of International Trade’ means the Office of
20 International Trade established under sub-
21 section (d) of section 2 of this Act, as added by
22 section 402 of the Security and Accountability
23 for Every Port Act of 2006 (Public Law 109–
24 347; 120 Stat. 1924), and as in effect on the
25 day before the date of the enactment of the

1 Trade Facilitation and Trade Enforcement Re-
2 authorization Act of 2013.

3 “(2) OTHER TRANSFERS.—

4 “(A) IN GENERAL.—The Commissioner is
5 authorized to transfer any other assets, func-
6 tions, or personnel within the U.S. Customs
7 and Border Protection Agency to the Office of
8 Trade established under subsection (a).

9 “(B) CONGRESSIONAL NOTIFICATION.—
10 Not less than 90 days prior to the transfer of
11 assets, functions, or personnel under subpara-
12 graph (A), the Commissioner shall notify the
13 Committee on Finance of the Senate and the
14 Committee on Ways and Means of the House of
15 Representatives of the specific assets, functions,
16 or personnel to be transferred, and the reason
17 for the transfer.

18 “(c) ASSISTANT COMMISSIONER FOR TRADE.—

19 “(1) APPOINTMENT.—

20 “(A) IN GENERAL.—The Commissioner
21 shall appoint an Assistant Commissioner for
22 Trade who shall—

23 “(i) be the head of the Office of
24 Trade; and

1 “(ii) report to the Deputy Commis-
2 sioner for Trade of the U.S. Customs and
3 Border Protection Agency.

4 “(B) SENIOR EXECUTIVE SERVICE POSI-
5 TION.—The position of Assistant Commissioner
6 for Trade shall be a Senior Executive Service
7 position (as defined in section 3132(a) of title
8 5, United States Code).

9 “(2) QUALIFICATIONS.—An individual ap-
10 pointed to be the Assistant Commissioner for Trade
11 shall have a minimum of 10 years of professional ex-
12 perience in the operation of the customs and trade
13 laws of the United States, not less than 3 of which
14 shall involve either working with or for the private
15 sector on matters relating to trade facilitation or
16 trade enforcement.

17 “(3) DUTIES.—The duties of the Assistant
18 Commissioner for Trade shall include—

19 “(A) directing the development and imple-
20 mentation, pursuant to the customs and trade
21 laws of the United States, of policies and regu-
22 lations administered by the U.S. Customs and
23 Border Protection Agency;

24 “(B) advising the Deputy Commissioner
25 for Trade with respect to the impact on trade

1 facilitation and trade enforcement of any policy
2 or regulation otherwise proposed or adminis-
3 tered by the Agency;

4 “(C) cooperating with the Assistant Com-
5 missioner for Field Operations with respect to
6 the trade facilitation and trade enforcement ac-
7 tivities of the Agency carried out at the land
8 borders and ports of entry of the United States;

9 “(D) directing the development and imple-
10 mentation of matters relating to the priority
11 trade issues identified by the Commissioner in
12 the joint strategic plan on trade facilitation and
13 trade enforcement required under section 123A
14 of the Customs and Trade Act of 1990;

15 “(E) otherwise advising the Commissioner
16 with respect to the development and implemen-
17 tation of the joint strategic plan;

18 “(F) directing the trade enforcement ac-
19 tivities of the Agency, including the activities of
20 the National Targeting and Analysis Groups es-
21 tablished under section 211 of the Trade Facili-
22 tation and Trade Enforcement Reauthorization
23 Act of 2013;

24 “(G) overseeing the trade modernization
25 activities of the Agency, including the develop-

1 ment and implementation of the Automated
2 Commercial Environment computer system au-
3 thorized under section 13031(f)(5) of the Con-
4 solidated Omnibus Budget and Reconciliation
5 Act of 1985 (19 U.S.C. 58c(f)(5)) and support
6 for the establishment of the International Trade
7 Data System under the oversight of the Depart-
8 ment of the Treasury pursuant to section
9 411(d) of the Tariff Act of 1930 (19 U.S.C.
10 1411(d));

11 “(H) directing the administration of cus-
12 toms revenue functions as otherwise provided
13 by law or delegated by the Commissioner; and

14 “(I) preparing an annual report to be sub-
15 mitted to the Committee on Finance of the Sen-
16 ate and the Committee on Ways and Means of
17 the House of Representatives not later than
18 March 1 of each calendar year that includes—

19 “(i) a summary of the changes to cus-
20 toms policies and regulations adopted by
21 the Agency during the preceding calendar
22 year; and

23 “(ii) a description of the public vet-
24 ting and interagency consultation that oc-
25 curred with respect to each such change.

1 “(4) CONTINUATION IN OFFICE.—The indi-
 2 vidual serving as the Assistant Commissioner of the
 3 Office of International Trade on the day before the
 4 date of the enactment of the Trade Facilitation and
 5 Trade Enforcement Reauthorization Act of 2013
 6 may serve as the Assistant Commissioner for Trade
 7 on or after such date of enactment, at the discretion
 8 of the Commissioner.

9 **“SEC. 5. OFFICE OF INTERNATIONAL AFFAIRS.**

10 “(a) ESTABLISHMENT OF OFFICE OF INTER-
 11 NATIONAL AFFAIRS.—There shall be in the U.S. Customs
 12 and Border Protection Agency an Office of International
 13 Affairs, which shall be headed by an Assistant Commis-
 14 sioner for International Affairs.

15 “(b) ASSISTANT COMMISSIONER FOR INTER-
 16 NATIONAL AFFAIRS.—

17 “(1) APPOINTMENT.—

18 “(A) IN GENERAL.—The Commissioner
 19 shall appoint an Assistant Commissioner for
 20 International Affairs who shall—

21 “(i) be the head of the Office of Inter-
 22 national Affairs; and

23 “(ii) report to the Deputy Commis-
 24 sioner for Trade of the U.S. Customs and
 25 Border Protection Agency.

1 “(B) SENIOR EXECUTIVE SERVICE POSI-
2 TION.—The position of Assistant Commissioner
3 for International Affairs shall be a Senior Exec-
4 utive Service position (as defined in section
5 3132(a) of title 5, United States Code).

6 “(2) QUALIFICATIONS.—An individual ap-
7 pointed to be the Assistant Commissioner for Inter-
8 national Affairs shall have a minimum of 10 years
9 of professional experience in the operation of the
10 customs and trade laws of the United States, not
11 less than 3 of which shall involve either working
12 with or for the private sector on matters relating to
13 trade facilitation or trade enforcement.

14 “(3) DUTIES.—The duties of the Assistant
15 Commissioner for International Affairs shall in-
16 clude—

17 “(A) coordinating the initiatives, programs,
18 and activities of the U.S. Customs and Border
19 Protection Agency in foreign countries, includ-
20 ing employees of the Agency in foreign coun-
21 tries;

22 “(B) advising the Commissioner with re-
23 spect to matters arising in the World Customs
24 Organization and, if appropriate, the World

1 Trade Organization and other international or-
2 ganizations;

3 “(C) ensuring that the policies and regula-
4 tions of the Agency are consistent with the obli-
5 gations of the United States pursuant to inter-
6 national agreements;

7 “(D) coordinating with other Federal agen-
8 cies on international efforts to enhance trade
9 facilitation and trade enforcement by the Agen-
10 cy;

11 “(E) coordinating with the customs au-
12 thorities of foreign countries with respect to
13 trade facilitation and, as appropriate, trade en-
14 forcement; and

15 “(F) providing training and capacity build-
16 ing to customs authorities of foreign countries.

17 “(4) CONTINUATION IN OFFICE.—The indi-
18 vidual serving as the Assistant Commissioner of the
19 Office of International Affairs on the day before the
20 date of the enactment of the Trade Facilitation and
21 Trade Enforcement Reauthorization Act of 2013
22 may serve as the Assistant Commissioner for Inter-
23 national Affairs on or after such date of enactment,
24 at the discretion of the Commissioner.

1 **“SEC. 6. COORDINATION BETWEEN THE ASSISTANT COM-**
2 **MISSIONER FOR TRADE AND THE ASSISTANT**
3 **COMMISSIONER FOR FIELD OPERATIONS.**

4 “To advance the security, trade facilitation, and
5 trade enforcement missions of the U.S. Customs and Bor-
6 der Protection Agency, the Commissioner shall ensure that
7 the Assistant Commissioner for Trade and the Assistant
8 Commissioner for Field Operations of the Agency work to-
9 gether on—

10 “(1) trade facilitation and trade enforcement
11 activities at United States ports of entry;

12 “(2) operational training of personnel within
13 the Office of Field Operations at United States
14 ports of entry to administer trade facilitation and
15 trade enforcement activities;

16 “(3) evaluating the operational effectiveness of
17 the trade facilitation and trade enforcement activi-
18 ties at United States ports of entry by personnel of
19 the Office of Field Operations;

20 “(4) cooperating with the Trade Advocate es-
21 tablished under section 2(c) to ensure that any in-
22 formation received from private sector entities re-
23 garding the trade facilitation and trade enforcement
24 activities of the Agency is considered;

25 “(5) ensuring the uniform administration and
26 implementation among United States ports of entry

1 of new or revised customs and trade laws, policies,
2 or regulations related to the trade facilitation and
3 trade enforcement activities of the Agency;

4 “(6) implementing the operational provisions of
5 the joint strategic plan on trade facilitation and
6 trade enforcement required under section 123A of
7 the Customs and Trade Act of 1990 related to the
8 trade facilitation and trade enforcement activities of
9 the Agency at United States ports of entry;

10 “(7) in cooperation with the Office of Inter-
11 national Affairs established under section 5, ensur-
12 ing that trade facilitation and trade enforcement ac-
13 tivities comply with obligations of the United States
14 pursuant to international agreements;

15 “(8) ensuring the prompt collection of available
16 data regarding cargo that violates the customs and
17 trade laws of the United States, and the prompt
18 issuance of Trade Alerts pursuant to section 211 of
19 the Trade Facilitation and Trade Enforcement Re-
20 authorization Act of 2013; and

21 “(9) otherwise overseeing the trade facilitation
22 and trade enforcement activities of personnel within
23 the Office of Field Operations at United States
24 ports of entry.

1 **“SEC. 7. ESTABLISHMENT OF TRADE FACILITATION AND**
2 **TRADE ENFORCEMENT DIVISION IN OFFICE**
3 **OF FIELD OPERATIONS; DIVISION PER-**
4 **SONNEL.**

5 “(a) **ESTABLISHMENT.**—There is established in the
6 Office of Field Operations of the U.S. Customs and Bor-
7 der Protection Agency a Trade Facilitation and Trade En-
8 forcement Division.

9 “(b) **DIVISION PERSONNEL.**—

10 “(1) **HEADQUARTERS PERSONNEL.**—The Com-
11 missioner shall assign sufficient personnel to operate
12 the Trade Facilitation and Trade Enforcement Divi-
13 sion in the Office of Field Operations established
14 under subsection (a).

15 “(2) **COMMERCIAL ENFORCEMENT OFFICERS.**—

16 “(A) **IN GENERAL.**—Not later than 180
17 days after the date of the enactment of the
18 Trade Facilitation and Trade Enforcement Re-
19 authorization Act of 2013, the Commissioner
20 shall designate and dedicate within the Office of
21 Field Operations not fewer than 40 commercial
22 enforcement officers.

23 “(B) **ASSIGNMENT.**—The Commissioner
24 shall assign the commercial enforcement officers
25 authorized under this subsection among the 40
26 United States ports of entry that experienced

1 the highest volume of trade during fiscal year
2 2013.

3 “(C) DUTIES.—The duties of a commercial
4 enforcement officer shall be—

5 “(i) to supervise all trade enforcement
6 activities of personnel of the Office of Field
7 Operations at the port of entry to which
8 the commercial enforcement officer has
9 been assigned;

10 “(ii) to coordinate with the Office of
11 Trade all trade enforcement activities at
12 that port of entry;

13 “(iii) to direct the training of per-
14 sonnel at that port of entry to effectuate
15 the trade enforcement activities of the Of-
16 fice of Field Operations; and

17 “(iv) to otherwise conduct trade en-
18 forcement activities at that port of entry.

19 **“SEC. 8. CUSTOMS FACILITATION AND ENFORCEMENT**
20 **INTERAGENCY COMMITTEE.**

21 “(a) ESTABLISHMENT.—The Commissioner shall es-
22 tablish a Customs Facilitation and Enforcement Inter-
23 agency Committee (in this section referred to as the ‘Com-
24 mittee’) to improve coordination and collaboration among

1 Federal agencies with respect to trade facilitation and
2 trade enforcement.

3 “(b) FUNCTIONS.—The functions of the Committee
4 shall include—

5 “(1) advising the Commissioner with respect to
6 policies or regulations of the U.S. Customs and Bor-
7 der Protection Agency that may significantly af-
8 fect—

9 “(A) the trade facilitation and trade en-
10 forcement missions of the Agency; or

11 “(B) the international trade policy, trade
12 commitments, or trade competitiveness of the
13 United States;

14 “(2) consulting with the Commissioner with re-
15 spect to the development and implementation of poli-
16 cies of agencies that are represented on the Com-
17 mittee that significantly affect the trade facilitation
18 and trade enforcement missions of the Agency;

19 “(3) reviewing recommendations of and ad-
20 dressing concerns identified by the Customs Facilita-
21 tion and Enforcement Review Group established
22 under subsection (d); and

23 “(4) such other functions as are agreed on by
24 the Commissioner and the members of the Com-
25 mittee.

1 “(c) MEMBERSHIP.—The members of the Committee
2 shall be the following:

3 “(1) The Commissioner.

4 “(2) The Deputy Commissioner for Trade of
5 the U.S. Customs and Border Protection Agency.

6 “(3) The Assistant Secretary for Tax Policy of
7 the Department of the Treasury.

8 “(4) The Administrator of the Animal and
9 Plant Health Inspection Service of the Department
10 of Agriculture.

11 “(5) The Director of the Bureau of Alcohol, To-
12 bacco, Firearms, and Explosives of the Department
13 of Justice.

14 “(6) The Chairman of the Consumer Product
15 Safety Commission.

16 “(7) The Administrator of the Environmental
17 Protection Agency.

18 “(8) The Commissioner of Food and Drugs of
19 the Department of Health and Human Services.

20 “(9) The Administrator of the Food Safety and
21 Inspection Service of the Department of Agriculture.

22 “(10) The Director of U.S. Immigration and
23 Customs Enforcement of the Department of Home-
24 land Security.

1 “(11) The Administrator of the National High-
2 way Traffic Safety Administration of the Depart-
3 ment of Transportation.

4 “(12) The Assistant Administrator for Fish-
5 eries of the National Oceanic and Atmospheric Ad-
6 ministration of the Department of Commerce.

7 “(13) The Under Secretary for International
8 Trade of the Department of Commerce.

9 “(14) A Deputy United States Trade Rep-
10 resentative.

11 “(15) Senior officials of such other Federal
12 agencies as the Commissioner determines appro-
13 priate.

14 “(d) CUSTOMS FACILITATION AND ENFORCEMENT
15 REVIEW GROUP.—

16 “(1) ESTABLISHMENT.—The Committee shall
17 establish a Customs Facilitation and Enforcement
18 Review Group (in this subsection referred to as the
19 ‘Review Group’) as a subordinate body of the Com-
20 mittee.

21 “(2) MEMBERSHIP.—The members of the Re-
22 view Group shall be—

23 “(A) the Deputy Commissioner for Trade
24 of the U.S. Customs and Border Protection
25 Agency or another senior official of the Agency

1 designated by the Commissioner, who shall
2 serve as chairperson of the Review Group; and

3 “(B) a senior official of each agency rep-
4 resented on the Committee.

5 “(3) MEETINGS.—The Deputy Commissioner
6 for Trade shall convene the Review Group as needed
7 to carry out the functions of the Review Group
8 under paragraph (4) and any other duties assigned
9 to the Review Group by the Committee.

10 “(4) FUNCTIONS.—The functions of the Review
11 Group shall include—

12 “(A) reviewing, and advising the Com-
13 mittee with respect to, proposed policies, proce-
14 dures, regulations, and activities of the U.S.
15 Customs and Border Protection Agency that
16 may significantly affect—

17 “(i) the trade facilitation and trade
18 enforcement missions of the Agency; or

19 “(ii) the international trade policy,
20 trade commitments, or trade competitive-
21 ness of the United States;

22 “(B) advising the Committee with respect
23 to the development and implementation of poli-
24 cies, procedures, regulations, and activities of
25 agencies represented on the Committee that sig-

1 significantly affect the trade facilitation and trade
2 enforcement missions of the Agency; and

3 “(C) such other functions as the Com-
4 mittee may direct.”.

5 (e) CONFORMING AMENDMENT.—Section 5315 of
6 title 5, United States Code, is amended by adding at the
7 end the following:

8 “Deputy Commissioners of U.S. Customs and
9 Border Protection, Department of Homeland Secu-
10 rity (3).”.

11 (d) CONFORMING REPEAL.—Section 650 of the Tar-
12 iff Act of 1930 (19 U.S.C. 1650) is repealed.

13 **SEC. 103. SEPARATE BUDGET REQUESTS FOR U.S. CUSTOMS**
14 **AND BORDER PROTECTION AGENCY.**

15 (a) IN GENERAL.—The President shall include in
16 each budget transmitted to Congress under section 1105
17 of title 31, United States Code, two separate budget re-
18 quests for the U.S. Customs and Border Protection Agen-
19 cy—

20 (1) one for the commercial operations of the
21 Agency; and

22 (2) one for the noncommercial operations of the
23 Agency.

24 (b) REPEAL.—

1 (1) IN GENERAL.—Section 414 of the Home-
2 land Security Act of 2002 (6 U.S.C. 214) is re-
3 pealed.

4 (2) CONFORMING AMENDMENT.—The table of
5 contents for the Homeland Security Act of 2002 is
6 amended by striking the item relating to section 414
7 and inserting the following:

“Sec. 414. [Reserved].”.

8 **SEC. 104. REVOLVING FUND.**

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

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

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

1 **SEC. 106. ADVANCES FOR ENFORCEMENT OF CUSTOMS**
2 **PROVISIONS.**

3 Section 2 of the Act of March 28, 1928 (45 Stat.
4 374, chapter 266; 19 U.S.C. 2077), is amended to read
5 as follows:

6 **“SEC. 2. ADVANCES FOR ENFORCEMENT OF CUSTOMS PRO-**
7 **VISIONS.**

8 “The Commissioner of U.S. Customs and Border
9 Protection and the Director of U.S. Immigration and Cus-
10 toms Enforcement, with the approval of the Secretary of
11 Homeland Security and the Secretary of the Treasury, are
12 each authorized to direct the advance of funds by the Fis-
13 cal Service of the Department of the Treasury in connec-
14 tion with the enforcement of the customs and trade laws
15 of the United States (as defined in section 2 of the Trade
16 Facilitation and Trade Enforcement Reauthorization Act
17 of 2013).”.

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

19 Section 3 of the Act of March 28, 1928 (45 Stat.
20 374, chapter 266; 19 U.S.C. 2078), is amended by strik-
21 ing “Commissioner of Customs” and inserting “Commis-
22 sioner of U.S. Customs and Border Protection or the Di-
23 rector of U.S. Immigration and Customs Enforcement”.

1 **SEC. 108. PAYMENTS IN FOREIGN COUNTRIES; CLAIMS FOR**
2 **REIMBURSEMENT.**

3 Section 4 of the Act of March 28, 1928 (45 Stat.
4 374, chapter 266; 19 U.S.C. 2079), is amended to read
5 as follows:

6 **“SEC. 4. PAYMENTS IN FOREIGN COUNTRIES; CLAIMS FOR**
7 **REIMBURSEMENT.**

8 “The provisions of this Act shall not affect payments
9 made for the U.S. Customs and Border Protection Agency
10 or the U.S. Immigration and Customs Enforcement Agen-
11 cy in foreign countries, or the right of any officer or em-
12 ployee of either such Agency to claim reimbursement for
13 personal funds expended in connection with the enforce-
14 ment of the customs and trade laws of the United States
15 (as defined in section 2 of the Trade Facilitation and
16 Trade Enforcement Reauthorization Act of 2013).”.

17 **SEC. 109. CUSTOMS ADMINISTRATION.**

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

20 **“SEC. 113. CUSTOMS ADMINISTRATION.**

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

24 “(1) develop and implement accounting systems
25 that accurately determine and report the allocation
26 of the personnel and other resources of the U.S.

1 Customs and Border Protection Agency and the
2 U.S. Immigration and Customs Enforcement Agency
3 among the various operational functions of each
4 Agency, such as merchandise processing, passenger
5 processing, drug enforcement, trade facilitation, and
6 trade enforcement; and

7 “(2) develop and implement periodic labor dis-
8 tribution surveys of major workforce activities within
9 the U.S. Customs and Border Protection Agency
10 and the U.S. Immigration and Customs Enforce-
11 ment Agency to determine the cost of the various
12 operational functions of each Agency and the extent
13 to which the costs of one Agency are covered by the
14 other Agency.

15 “(b) SURVEY REPORTS.—Not later than one year
16 after the date of the enactment of the Trade Facilitation
17 and Trade Enforcement Reauthorization Act of 2013, the
18 Commissioner of U.S. Customs and Border Protection and
19 the Director of U.S. Immigration and Customs Enforce-
20 ment shall each submit to the Committee on Finance of
21 the Senate and the Committee on Ways and Means of the
22 House of Representatives a report on the results of the
23 first surveys implemented under subsection (a)(2).”.

1 **SEC. 110. PERSONNEL.**

2 (a) IN GENERAL.—Subsection (a) of section 401 of
3 the Security and Accountability for Every Port Act of
4 2006 (6 U.S.C. 115) is amended to read as follows:

5 “(a) DIRECTOR OF TRADE POLICY.—

6 “(1) IN GENERAL.—There shall be in the Office
7 of Policy of the Department of Homeland Security
8 a Director of Trade Policy, who shall—

9 “(A) coordinate with the Commissioner of
10 U.S. Customs and Border Protection and the
11 Director of U.S. Immigration and Customs En-
12 forcement to ensure that the economic security
13 interests of the United States associated with
14 international trade, including trade facilitation
15 and trade enforcement (as defined in section 2
16 of the Trade Facilitation and Trade Enforce-
17 ment Reauthorization Act of 2013), are consid-
18 ered in the development and implementation of
19 policies within the Department of Homeland
20 Security;

21 “(B) engage with law enforcement and
22 customs authorities of foreign countries and
23 private sector entities to build on existing ef-
24 forts to develop, strengthen, and implement
25 international standards for securing key sys-

1 tems of the global economy and more effectively
2 facilitating trade; and

3 “(C) submit to the Committee on Finance
4 of the Senate and the Committee on Ways and
5 Means of the House of Representatives, not
6 later than December 15 of each year, a report
7 describing how the Department of Homeland
8 Security accounted for the economic security in-
9 terests of the United States associated with
10 international trade, including trade facilitation
11 and trade enforcement, in developing and imple-
12 menting policies during the preceding fiscal
13 year.

14 “(2) QUALIFICATIONS.—The Director of Trade
15 Policy shall have significant experience in the devel-
16 opment, operation, or administration of the customs
17 and trade laws of the United States (as defined in
18 section 2 of the Trade Facilitation and Trade En-
19 forcement Reauthorization Act of 2013).”.

20 (b) NEW PERSONNEL.—Subsection (c) of section 412
21 of the Homeland Security Act of 2002 (6 U.S.C. 212(c))
22 is amended to read as follows:

23 “(c) NEW PERSONNEL.—Not later than 90 days
24 after the date of the enactment of the Trade Facilitation
25 and Trade Enforcement Reauthorization Act of 2013, the

1 Secretary of the Treasury shall designate and dedicate not
2 fewer than 5 and not more than 20 full-time equivalent
3 personnel to work exclusively with the Deputy Assistant
4 Secretary of the Treasury for Tax, Trade, and Tariff Pol-
5 icy in the performance and oversight of customs revenue
6 functions.”.

7 **SEC. 111. 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) by redesignating subsection (h) as sub-
12 section (i); and

13 (2) by striking subsections (a) through (g) and
14 inserting the following:

15 “(a) IN GENERAL.—

16 “(1) FISCAL YEAR 2014 AND EACH FISCAL YEAR
17 THEREAFTER.—For fiscal year 2014 and each fiscal
18 year thereafter, there are authorized to be appro-
19 priated to the Department of Homeland Security for
20 the U.S. Customs and Border Protection Agency
21 only such sums as may hereafter be authorized by
22 law.

23 “(2) REQUIREMENT FOR AUTHORIZATION.—

24 The authorization of appropriations for the U.S.
25 Customs and Border Protection Agency for fiscal

1 year 2014 and each fiscal year thereafter shall speci-
2 fy—

3 “(A) the amount authorized for the fiscal
4 year for the salaries and expenses of the Agency
5 in conducting commercial operations (as de-
6 scribed in section 1(c)(2) of the Act of March
7 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C.
8 2071)); and

9 “(B) the amount authorized for the fiscal
10 year for the salaries and expenses of the Agency
11 for noncommercial operations.

12 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
13 are authorized to be appropriated for the salaries and ex-
14 penses of the U.S. Customs and Border Protection Agency
15 that are incurred in commercial operations such sums as
16 are necessary for fiscal years 2014 through 2018.

17 “(c) CUSTOMS USER FEE ACCOUNT.—The monies
18 authorized to be appropriated pursuant to subsection (b)
19 for any fiscal year, except for such sums as may be nec-
20 essary for the salaries and expenses of the U.S. Customs
21 and Border Protection Agency that are incurred in con-
22 nection with the processing of merchandise that is exempt
23 from the fees imposed pursuant to paragraphs (9) and
24 (10) of section 13031(a) of the Consolidated Omnibus
25 Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)),

1 shall be appropriated from the Customs User Fee Ac-
2 count.

3 “(d) MANDATORY 10-DAY DEFERMENT.—No part of
4 the funds appropriated pursuant to subsection (a) for any
5 fiscal year may be used to provide less time for the collec-
6 tion of estimated duties than the 10-day deferment proce-
7 dure in effect on January 1, 1981.

8 “(e) OVERTIME PAY LIMITATIONS; WAIVER.—No
9 part of the funds appropriated pursuant to subsection (a)
10 for any fiscal year may be used for administrative ex-
11 penses to pay any employee of the U.S. Customs and Bor-
12 der Protection Agency overtime pay in an amount exceed-
13 ing \$35,000 unless the Secretary of Homeland Security,
14 or the designee of the Secretary, determines on an indi-
15 vidual basis that payment of overtime pay to such em-
16 ployee in an amount exceeding \$35,000 is necessary for
17 national security purposes, to prevent excessive costs, or
18 to meet emergency requirements of the Agency.

19 “(f) PAY COMPARABILITY AUTHORIZATION.—For fis-
20 cal year 2014 and each fiscal year thereafter, there are
21 authorized to be appropriated to the Department of
22 Homeland Security for salaries of the U.S. Customs and
23 Border Protection Agency such additional sums as may
24 be provided by law to reflect pay rate changes made in

1 accordance with subchapter I of chapter 53 of title 5,
2 United States Code.

3 “(g) USE OF SAVINGS RESULTING FROM ADMINIS-
4 TRATIVE CONSOLIDATIONS.—If savings in salaries and ex-
5 penses result from the consolidation of administrative
6 functions within the U.S. Customs and Border Protection
7 Agency, the Commissioner of U.S. Customs and Border
8 Protection shall apply the savings, to the extent the sav-
9 ings are not needed to meet emergency requirements of
10 the Agency, to strengthening the commercial operations
11 of the Agency.

12 “(h) ALLOCATION OF RESOURCES; REPORT TO CON-
13 GRESSIONAL COMMITTEES.—The Commissioner of U.S.
14 Customs and Border Protection shall notify the Com-
15 mittee on Finance of the Senate and the Committee on
16 Ways and Means of the House of Representatives at least
17 180 days prior to taking any action that would—

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

21 “(2) result in any significant reduction in hours
22 of operation or services rendered at any office of the
23 Agency or any United States port of entry;

24 “(3) eliminate or relocate any office of the
25 Agency;

1 “(4) eliminate any United States port of entry;

2 or

3 “(5) significantly reduce the number of employ-
4 ees assigned to any office or any function of the
5 Agency.”.

6 (b) RESOURCE OPTIMIZATION MODEL.—Subsection
7 (i) of section 301 of the Customs Procedural Reform and
8 Simplification Act of 1978, as redesignated by subsection
9 (a), is amended by striking “Resource Allocation Model”
10 each place it appears in the text and in the heading and
11 inserting “Resource Optimization Model”.

12 (c) CONFORMING AMENDMENTS.—

13 (1) IN GENERAL.—Subsection (c) of section 5
14 of the Act of February 13, 1911 (36 Stat. 901,
15 chapter 46; 19 U.S.C. 267), is amended to read as
16 follows:

17 “(c) LIMITATIONS.—

18 “(1) FISCAL YEAR CAP.—The aggregate of
19 overtime pay under subsection (a) (including com-
20 muting compensation under subsection (a)(2)(B))
21 and premium pay under subsection (b) that an em-
22 ployee of the U.S. Customs and Border Protection
23 Agency may be paid in any fiscal year may not ex-
24 ceed \$35,000 unless the Secretary of Homeland Se-
25 curity, or the designee of the Secretary, determines

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

6 “(2) EXCLUSIVITY OF PAY UNDER THIS SEC-
7 TION.—An employee of the Agency who receives
8 overtime pay under subsection (a), or premium pay
9 under subsection (b) for time worked, may not re-
10 ceive pay or other compensation for that work under
11 any other provision of law.”

12 (2) BASIC PAY.—Section 8331(3)(G) of title 5,
13 United States Code, is amended—

14 (A) by striking “a customs officer” and all
15 that follows through “1911)” and inserting “an
16 employee of the U.S. Customs and Border Pro-
17 tection Agency”;

18 (B) by striking “subsection (a) of such sec-
19 tion 5” and inserting “subsection (c) of section
20 5 of the Act of February 13, 1911 (36 Stat.
21 901, chapter 46; 19 U.S.C. 267)”;

22 (C) by striking “customs officers” and in-
23 serting “such employees”.

1 **Subtitle B—Investigative Functions**

2 **SEC. 121. ESTABLISHMENT OF U.S. IMMIGRATION AND CUS-** 3 **TOMS ENFORCEMENT AGENCY.**

4 (a) IN GENERAL.—Section 442 of the Homeland Se-
5 curity Act of 2002 (6 U.S.C. 252) is amended to read
6 as follows:

7 **“SEC. 442. ESTABLISHMENT OF U.S. IMMIGRATION AND** 8 **CUSTOMS ENFORCEMENT AGENCY; DIREC-** 9 **TOR.**

10 “(a) ESTABLISHMENT OF AGENCY.—There shall be
11 in the Department of Homeland Security an agency to be
12 known as the U.S. Immigration and Customs Enforce-
13 ment Agency.

14 “(b) ESTABLISHMENT OF DIRECTOR.—

15 “(1) IN GENERAL.—The head of the U.S. Im-
16 migration and Customs Enforcement Agency shall
17 be a Director of U.S. Immigration and Customs En-
18 forcement (in this section referred to as the ‘Direc-
19 tor’), who shall—

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

22 “(B) carry out the duties and powers de-
23 scribed in subsection (c), prescribed by law, and
24 prescribed by the Secretary of Homeland Secu-
25 rity;

1 “(C) report directly to the Secretary of
2 Homeland Security; and

3 “(D) have a minimum of 5 years profes-
4 sional experience in law enforcement, and a
5 minimum of 5 years of management experience.

6 “(2) COMMITTEE REFERRAL.—As an exercise
7 of the rulemaking power of the Senate, any nomina-
8 tion for Director shall be referred to the Committee
9 on Finance. If the Committee on Finance has not
10 reported such nomination at the close of the 30th
11 day after its referral to such Committee, the Com-
12 mittee shall be automatically discharged from fur-
13 ther consideration of such nomination and such
14 nomination shall be referred to the Committee on
15 the Judiciary.

16 “(3) COMPENSATION.—The Director shall be
17 compensated at the rate of pay for level III of the
18 Executive Schedule as provided in section 5314 of
19 title 5, United States Code.

20 “(c) DUTIES OF DIRECTOR.—The duties of the Di-
21 rector shall include—

22 “(1) establishing and overseeing the administra-
23 tion of policies with respect to functions—

24 “(A) performed under the detention and
25 removal program, the intelligence program, and

1 the investigations program that were trans-
2 ferred to the Under Secretary for Border and
3 Transportation Security by section 441 and del-
4 egated to the Assistant Secretary for U.S. Im-
5 migration and Customs Enforcement on the day
6 before the date of the enactment of the Trade
7 Facilitation and Trade Enforcement Reauthor-
8 ization Act of 2013; and

9 “(B) otherwise vested in the Assistant Sec-
10 retary on the day before such date of enact-
11 ment;

12 “(2) advising the Secretary with respect to any
13 policy or operation of the U.S. Immigration and
14 Customs Enforcement Agency that may affect the
15 U.S. Citizenship and Immigration Services estab-
16 lished under subtitle E, including potentially con-
17 flicting policies and operations;

18 “(3) conducting and coordinating investigations
19 of violations of the customs and trade laws of the
20 United States (as defined in section 2 of the Trade
21 Facilitation and Trade Enforcement Reauthorization
22 Act of 2013) and, when appropriate, referring al-
23 leged violations of such laws for criminal prosecu-
24 tion;

1 “(4) coordinating efforts with law enforcement
2 and customs authorities of foreign countries to in-
3 vestigate violations of customs and trade laws; and

4 “(5) coordinating with the Commissioner of
5 U.S. Customs and Border Protection with respect to
6 investigations of violations of the customs and trade
7 laws of the United States and ensuring the develop-
8 ment and implementation of the joint strategic plan
9 on trade facilitation and trade enforcement required
10 under section 123A of the Customs and Trade Act
11 of 1990.

12 “(d) DEPUTY DIRECTOR.—The Director is author-
13 ized to appoint, in the U.S. Immigration and Customs En-
14 forcement Agency established under subsection (a), one
15 Deputy Director who shall assist the Director in the man-
16 agement of the Agency and who shall act for the Director
17 during the absence or disability of the Director or in the
18 event that the position of Director is vacant.

19 “(e) ADDITIONAL OFFICERS.—The Director may ap-
20 point such officers as are necessary to manage the indi-
21 vidual offices within the U.S. Immigration and Customs
22 Enforcement Agency.

23 “(f) PROGRAM TO COLLECT INFORMATION RELAT-
24 ING TO FOREIGN STUDENTS.—The Director shall be re-
25 sponsible for administering the program to collect infor-

1 mation relating to nonimmigrant foreign students and
2 other exchange program participants described in section
3 641 of the Illegal Immigration Reform and Immigrant Re-
4 sponsibility Act of 1996 (8 U.S.C. 1372), including the
5 Student and Exchange Visitor Information System estab-
6 lished pursuant to that section, and shall use such infor-
7 mation to carry out the enforcement functions of the U.S.
8 Immigration and Customs Enforcement Agency.

9 “(g) CHIEF OF POLICY AND STRATEGY.—

10 “(1) IN GENERAL.—There shall be a position of
11 Chief of Policy and Strategy for the U.S. Immigra-
12 tion and Customs Enforcement Agency.

13 “(2) FUNCTIONS.—In consultation with per-
14 sonnel in local offices of the Agency, the Chief of
15 Policy and Strategy shall be responsible for—

16 “(A) making policy recommendations and
17 performing policy research and analysis on im-
18 migration enforcement issues; and

19 “(B) coordinating immigration policy
20 issues with the Chief of Policy and Strategy for
21 the Bureau of Citizenship and Immigration
22 Services established under section 451(c), as
23 appropriate.

24 “(h) LEGAL ADVISOR.—There shall be a principal
25 legal advisor to the Director. The legal advisor shall pro-

1 vide specialized legal advice to the Director and shall rep-
2 resent the U.S. Immigration and Customs Enforcement
3 Agency in all exclusion, deportation, and removal pro-
4 ceedings before the Executive Office for Immigration Re-
5 view.”.

6 (b) COMPENSATION.—

7 (1) IN GENERAL.—Section 5314 of title 5,
8 United States Code, is amended by adding at the
9 end the following:

10 “Director of U.S. Immigration and Customs
11 Enforcement, Department of Homeland Security.”.

12 (2) CONTINUATION IN OFFICE.—The individual
13 serving as Assistant Secretary for U.S. Immigration
14 and Customs Enforcement of the Department of
15 Homeland Security on the day before the date of the
16 enactment of this Act may serve as Director of U.S.
17 Immigration and Customs Enforcement until the
18 earlier of—

19 (A) the date on which that individual is no
20 longer eligible to serve as Assistant Secretary;
21 or

22 (B) the date on which an individual nomi-
23 nated by the President to be the Director of
24 U.S. Immigration and Customs Enforcement is
25 confirmed by the Senate.

1 (3) REFERENCE.—On and after the date of the
 2 enactment of this Act, any reference to the Assistant
 3 Secretary for U.S. Immigration and Customs En-
 4 forcement or the Assistant Secretary of the Bureau
 5 of Border Security of the Department of Homeland
 6 Security, shall be deemed to be a reference to the
 7 Director of U.S. Immigration and Customs Enforce-
 8 ment.

9 (c) CONFORMING AMENDMENTS.—

10 (1) The heading for subtitle D of title IV of the
 11 Homeland Security Act of 2002 is amended to read
 12 as follows:

13 **“Subtitle D—Enforcement**
 14 **Functions”.**

15 (2) The table of contents for the Homeland Se-
 16 curity Act of 2002 is amended—

17 (A) by striking the item relating to section
 18 442 and inserting the following:

“Sec. 442. Establishment of U.S. Immigration and Customs Enforcement
 Agency; Director.”;

19 and

20 (B) by striking the item relating to subtitle
 21 D of title IV and inserting the following:

“Subtitle D—Enforcement Functions”.

22 (3) Section 451(a)(2)(C) of the Homeland Se-
 23 curity Act of 2002 (6 U.S.C. 271(a)(2)(C)) is

1 amended by striking “Assistant Secretary of the Bu-
2 reau of Border Security” and inserting “Director of
3 U.S. Immigration and Customs Enforcement”.

4 **SEC. 122. SEPARATE BUDGET REQUESTS FOR U.S. IMMI-**
5 **GRATION AND CUSTOMS ENFORCEMENT**
6 **AGENCY.**

7 The President shall include in each budget trans-
8 mitted to Congress under section 1105 of title 31, United
9 States Code, two separate budget requests for the U.S.
10 Immigration and Customs Enforcement Agency—

11 (1) one for the customs operations of the Agen-
12 cy; and

13 (2) one for the operations of the Agency other
14 than customs operations.

15 **SEC. 123. UNDERCOVER INVESTIGATIVE OPERATIONS.**

16 Section 3131 of the Customs Enforcement Act of
17 1986 (19 U.S.C. 2081) is amended—

18 (1) in the section heading, by striking “**CUS-**
19 **TOMS SERVICE**” and inserting “**U.S. IMMIGRA-**
20 **TION AND CUSTOMS ENFORCEMENT AGENCY**”;

21 (2) in subsection (a)—

22 (A) in the matter preceding paragraph

23 (1)—

24 (i) by striking “United States Cus-
25 toms Service (hereinafter in this section re-

1 ferred to as the ‘Service’” and inserting
2 “U.S. Immigration and Customs Enforce-
3 ment Agency (in this section referred to as
4 the ‘Agency’)”; and

5 (ii) by striking “the Treasury” and in-
6 serting “Homeland Security”;

7 (B) in paragraph (1)—

8 (i) in the matter preceding subpara-
9 graph (A), by striking “for the Service”;

10 and

11 (ii) in subparagraph (A), by striking
12 clauses (i) through (v) and inserting the
13 following:

14 “(i) sections 1341 and 3324 of title
15 31, United States Code,

16 “(ii) section 8141 of title 40, United
17 States Code, and

18 “(iii) sections 3901, 6301, and 6306,
19 and chapter 45, of title 41, United States
20 Code, and”;

21 (C) in paragraph (2), by striking “Service”
22 and inserting “Agency”; and

23 (D) in the flush text at the end, by strik-
24 ing “Commissioner of Customs (or, if des-
25 ignated by the Commissioner the Deputy or an

1 Assistant Commissioner of Customs)” and in-
2 serting “Director of U.S. Immigration and Cus-
3 toms Enforcement (or such other officer within
4 the Agency as the Director may designate)”;

5 (3) in subsection (b), by striking “Service, as
6 much in advance as the Commissioner or his des-
7 ignee determines is practicable, shall report the cir-
8 cumstances to the Secretary of the Treasury” and
9 inserting “Agency, as much in advance as the Direc-
10 tor (or such other officer within the Agency as the
11 Director may designate) determines is practicable,
12 shall report the circumstances to the Secretary of
13 Homeland Security and the Secretary of the Treas-
14 ury”;

15 (4) in subsection (d)—

16 (A) in paragraph (1)—

17 (i) in the matter preceding subpara-
18 graph (A), by striking “Service” and in-
19 serting “Director of U.S. Immigration and
20 Customs Enforcement”; and

21 (ii) in subparagraph (A), by inserting
22 “the Secretary of Homeland Security and”
23 after “in writing to”; and

24 (B) in paragraph (2), in the matter pre-
25 ceding subparagraph (A)—

1 (i) by striking “Service” and inserting
2 “Director”; and

3 (ii) by striking “as to its undercover
4 investigative operations” and inserting
5 “with respect to the undercover investiga-
6 tive operations of the Agency”; and

7 (5) in subsection (e), by striking “Service” each
8 place it appears and inserting “Agency”.

9 **SEC. 124. 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 YEAR 2014 AND EACH FISCAL YEAR
17 THEREAFTER.—For fiscal year 2014 and each fiscal
18 year thereafter, there are authorized to be appro-
19 priated to the Department of Homeland Security for
20 the U.S. Immigration and Customs Enforcement
21 Agency only such sums as may hereafter be author-
22 ized by law.

23 “(2) SPECIFICATION OF AMOUNTS.—The au-
24 thorization of the appropriations for the U.S. Immi-
25 gration and Customs Enforcement Agency for fiscal

1 year 2014 and each fiscal year thereafter shall speci-
2 fy—

3 “(A) the amount authorized for the fiscal
4 year for the salaries and expenses of the Agency
5 in conducting customs operations; and

6 “(B) the amount authorized for the fiscal
7 year for the salaries and expenses of the Agency
8 for other than customs operations.

9 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
10 are authorized to be appropriated for the salaries and ex-
11 penses of the U.S. Immigration and Customs Enforcement
12 Agency that are incurred in customs operations such sums
13 as are necessary for fiscal years 2014 through 2018.”.

14 **Subtitle C—Joint Strategic Plan on**
15 **Trade Facilitation and Trade**
16 **Enforcement**

17 **SEC. 131. JOINT STRATEGIC PLAN ON TRADE FACILITATION**
18 **AND TRADE ENFORCEMENT.**

19 (a) IN GENERAL.—Subtitle C of title I of the Cus-
20 toms and Trade Act of 1990 (Public Law 101–382; 104
21 Stat. 629) is amended by inserting after section 123 (19
22 U.S.C. 2083) the following:

1 **“SEC. 123A. JOINT STRATEGIC PLAN ON TRADE FACILITA-**
2 **TION AND TRADE ENFORCEMENT.**

3 “(a) IN GENERAL.—Not later than one year after the
4 date of the enactment of the Trade Facilitation and Trade
5 Enforcement Reauthorization Act of 2013, and every 2
6 years thereafter, the Commissioner of U.S. Customs and
7 Border Protection and the Director of U.S. Immigration
8 and Customs Enforcement shall jointly develop and sub-
9 mit to the Committee on Finance of the Senate and the
10 Committee on Ways and Means of the House of Rep-
11 resentatives a joint strategic plan on trade facilitation and
12 trade enforcement.

13 “(b) CONTENTS.—The joint strategic plan required
14 by subsection (a) shall be comprised of a comprehensive
15 multiyear plan for trade facilitation and trade enforcement
16 and shall include—

17 “(1) a summary of actions taken during the 2-
18 year period preceding the submission of the report
19 to improve trade facilitation and trade enforcement,
20 including a description and analysis of specific per-
21 formance measures to evaluate the progress of the
22 U.S. Customs and Border Protection Agency and
23 the U.S. Immigration and Customs Enforcement
24 Agency with respect to trade facilitation and trade
25 enforcement;

1 “(2) a statement of objectives and plans for
2 further improving trade facilitation and trade en-
3 forcement;

4 “(3) a statement of objectives and plans to
5 strengthen the economic security and competitive-
6 ness of the United States;

7 “(4) a designation of priority trade issues that
8 that can be addressed in order to enhance trade fa-
9 cilitation and trade enforcement and a description of
10 strategies, plans, and metrics for addressing each
11 such issue;

12 “(5) a description of efforts made to improve
13 consultation and coordination among Federal agen-
14 cies, and in particular between the U.S. Customs
15 and Border Protection Agency and the U.S. Immi-
16 gration and Customs Enforcement Agency, to en-
17 hance trade facilitation and trade enforcement;

18 “(6) a description of efforts to work with the
19 World Customs Organization, the World Trade Or-
20 ganization, and other international organizations
21 with respect to enhancing trade facilitation and
22 trade enforcement;

23 “(7) a description of efforts made to improve
24 consultation and coordination with the private sector
25 to enhance trade facilitation and trade enforcement;

1 “(8) a description of the training that has oc-
2 curred during the 2-year period preceding the sub-
3 mission of the report within the U.S. Customs and
4 Border Protection Agency and the U.S. Immigration
5 and Customs Enforcement Agency to improve trade
6 facilitation and trade enforcement;

7 “(9) a specific identification of any domestic or
8 international best practices or technologies that may
9 further improve trade facilitation and trade enforce-
10 ment; and

11 “(10) any legislative recommendations to fur-
12 ther improve trade facilitation and trade enforce-
13 ment.

14 “(c) CONSULTATIONS.—In developing the joint stra-
15 tegic plan required by subsection (a), the Commissioner
16 of U.S. Customs and Border Protection and the Director
17 of U.S. Immigration and Customs Enforcement shall con-
18 sult with—

19 “(1) appropriate officials of agencies rep-
20 resented on the Customs Facilitation and Enforce-
21 ment Interagency Committee established under sec-
22 tion 8 of the Act of March 3, 1927, and such other
23 agencies as the Commissioner or the Director deter-
24 mine appropriate; and

1 “(2) the Customs Operations Advisory Com-
2 mittee and the Trade Support Network, as appro-
3 priate.

4 “(d) DEFINITIONS.—In this section, the terms ‘Cus-
5 toms Operations Advisory Committee’, ‘trade enforce-
6 ment’, ‘trade facilitation’, and ‘Trade Support Network’
7 have the meanings given those terms in section 2 of the
8 Trade Facilitation and Trade Enforcement Reauthoriza-
9 tion Act of 2013.”.

10 (b) CONFORMING AMENDMENT.—The table of con-
11 tents for the Customs and Trade Act of 1990 is amended
12 by inserting after the item relating to section 123 the fol-
13 lowing:

 “Sec. 123A. Joint strategic plan on trade facilitation and trade enforcement.”.

14 **TITLE II—TRADE FACILITATION,**
15 **TRADE ENFORCEMENT, AND**
16 **TRANSPARENCY**

17 **Subtitle A—Trade Facilitation and**
18 **Transparency**

19 **SEC. 201. IMPROVING PARTNERSHIP PROGRAMS.**

20 (a) IN GENERAL.—In order to advance the security,
21 trade facilitation, and trade enforcement missions of the
22 U.S. Customs and Border Protection Agency, the Com-
23 missioner shall ensure that partnership programs of the
24 Agency established before the date of the enactment of
25 this Act, such as the Customs–Trade Partnership Against

1 Terrorism established under subtitle B of title II of the
2 Security and Accountability for Every Port Act of 2006
3 (6 U.S.C. 961 et seq.), and partnership programs of the
4 Agency established after such date of enactment, provide
5 trade benefits to private sector entities that meet the re-
6 quirements for participation in those programs established
7 by the Commissioner under this section.

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

11 (1) consult with private sector entities, the pub-
12 lic, and other Federal agencies when appropriate, to
13 ensure that participants in those programs receive
14 commercially significant and measurable trade bene-
15 fits;

16 (2) ensure an integrated and transparent sys-
17 tem of trade benefits and compliance requirements
18 for all partnership programs of the U.S. Customs
19 and Border Protection Agency;

20 (3) consider consolidating partnership programs
21 in situations in which doing so would support the
22 objectives of such programs, increase participation in
23 such programs, enhance the trade benefits provided
24 to participants in such programs, and enhance the
25 allocation of the resources of the Agency;

1 (4) coordinate with other Federal agencies with
2 authority to detain and release merchandise entering
3 the United States—

4 (A) to ensure coordination in the release of
5 such merchandise through the Automated Com-
6 mercial Environment computer system, or its
7 predecessor, and the International Trade Data
8 System;

9 (B) to ensure that the partnership pro-
10 grams of those agencies are compatible with the
11 partnership programs of the U.S. Customs and
12 Border Protection Agency; and

13 (C) to develop criteria for authorizing the
14 release, on an expedited basis, of merchandise
15 for which documentation is required from one
16 or more of those agencies to clear or license the
17 merchandise for entry into the United States;
18 and

19 (5) ensure that trade benefits are provided to
20 participants in partnership programs.

21 (c) REPORT REQUIRED.—Not later than the date
22 that is 180 days after the date of the enactment of this
23 Act, and December 31 of each year thereafter, the Com-
24 missioner shall submit to the Committee on Finance of

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

3 (1) identifies each partnership program referred
4 to in subsection (a), including the program referred
5 to in section 499A of the Tariff Act of 1930, as
6 added by section 202;

7 (2) for each such program, identifies—

8 (A) the requirements for participants in
9 the program;

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

13 (C) the number of participants in the pro-
14 gram; and

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

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

20 (4) assesses the effectiveness of each such part-
21 nership program in advancing the security, trade fa-
22 cilitation, and trade enforcement missions of the
23 U.S. Customs and Border Protection Agency, based
24 on historical developments, the level of participation

1 in the program, and the evolution of benefits pro-
2 vided to participants in the program;

3 (5) summarizes the efforts of the Agency to
4 work with other Federal agencies with authority to
5 detain and release merchandise entering the United
6 States to ensure that partnership programs of those
7 agencies are compatible with partnership programs
8 of the Agency;

9 (6) identifies from among those agencies the
10 agencies that are collaborating with the Commis-
11 sioner to provide benefits pursuant to subsection (f)
12 of section 499A of the Tariff Act of 1930, as added
13 by section 202;

14 (7) summarizes criteria developed with those
15 agencies for authorizing the release, on an expedited
16 basis, of merchandise for which documentation is re-
17 quired from one or more of those agencies to clear
18 or license the merchandise for entry into the United
19 States;

20 (8) summarizes the efforts of the Agency to
21 work with private sector entities and the public to
22 develop and improve partnership programs referred
23 to in subsection (a);

1 (9) describes measures taken by the Agency to
2 make private sector entities aware of the trade bene-
3 fits available to participants in such programs; and

4 (10) summarizes the plans, targets, and goals
5 of the Agency with respect to such programs for the
6 2 years following the submission of the report.

7 **SEC. 202. TRADE FACILITATION PARTNERSHIP PROGRAM.**

8 (a) IN GENERAL.—Title IV of the Tariff Act of 1930
9 (19 U.S.C. 1401 et seq.) is amended by adding at the end
10 the following:

11 **“SEC. 499A. TRADE FACILITATION PARTNERSHIP PRO-**
12 **GRAM.**

13 “(a) IN GENERAL.—The Commissioner of U.S. Cus-
14 toms and Border Protection (in this section referred to
15 as the ‘Commissioner’) shall establish a voluntary govern-
16 ment–private sector program or modify an existing such
17 program to enhance trade facilitation and trade enforce-
18 ment and to provide trade benefits developed under sub-
19 section (c) to qualified persons.

20 “(b) QUALIFIED PERSON DEFINED.—For purposes
21 of this section, the term ‘qualified person’ means a person
22 that—

23 “(1) is involved in the entry of merchandise
24 into the United States, including as an intermodal
25 transportation system provider, contract logistics

1 provider, air, land, or sea carrier, customs broker,
2 importer, or forwarder; and

3 “(2) demonstrates compliance with the require-
4 ments established under subsection (e) in accordance
5 with the procedures established under subsection
6 (d).

7 “(c) TRADE BENEFITS.—

8 “(1) IN GENERAL.—The Commissioner shall, in
9 consultation with the entities specified in paragraph
10 (3), develop enhanced commercially significant and
11 measurable trade benefits to be provided to qualified
12 persons.

13 “(2) REQUIREMENTS.—The trade benefits de-
14 veloped under paragraph (1) shall—

15 “(A) be designed to expedite the release of
16 merchandise of qualified persons upon arrival of
17 the merchandise in the United States; and

18 “(B) include—

19 “(i) consideration of the status of per-
20 sons as qualified persons for the purposes
21 of commercial targeting under section
22 211(c) of the Trade Facilitation and Trade
23 Enforcement Reauthorization Act of 2013;

24 “(ii) to the extent practicable, giving
25 priority to qualified persons with respect to

1 the clearance of merchandise during activi-
2 ties to resume trade after any disruption to
3 the processing of merchandise entering the
4 United States;

5 “(iii) providing preclearance of mer-
6 chandise for qualified persons that dem-
7 onstrate the highest levels of compliance
8 with the customs and trade laws of the
9 United States, regulations of the U.S. Cus-
10 toms and Border Protection Agency, and
11 requirements established under subsection
12 (e); and

13 “(iv) any other trade benefits the
14 Commissioner determines appropriate for
15 achieving the goals of the program under
16 subsection (a).

17 “(3) ENTITIES SPECIFIED.—The entities speci-
18 fied in this paragraph are—

19 “(A) the Customs Operations Advisory
20 Committee established under section 205 of the
21 Trade Facilitation and Trade Enforcement Re-
22 authorization Act of 2013;

23 “(B) the Trade Support Network (as de-
24 fined in section 2 of that Act);

1 “(C) the Committee on Finance of the
2 Senate; and

3 “(D) the Committee on Ways and Means
4 of the House of Representatives.

5 “(d) PROCEDURES.—The Commissioner shall estab-
6 lish procedures with respect to the following:

7 “(1) Submission and approval of applications to
8 receive trade benefits under the program under sub-
9 section (a).

10 “(2) Verification that an applicant to receive
11 trade benefits under the program is a qualified per-
12 son.

13 “(3) Reverification that a person receiving
14 trade benefits under the program continues to be a
15 qualified person.

16 “(4) Withdrawal of trade benefits from a per-
17 son that the Commissioner determines is not a quali-
18 fied person.

19 “(5) Appeals of decisions of the Commissioner
20 under this section.

21 “(e) REQUIREMENTS.—

22 “(1) IN GENERAL.—The Commissioner, in con-
23 sultation with the entities specified in subsection
24 (c)(3)—

1 “(A) shall establish requirements for re-
2 ceiving trade benefits under the program under
3 subsection (a); and

4 “(B) may establish multiple tiers of re-
5 quirements and trade benefits under the pro-
6 gram.

7 “(2) MINIMUM REQUIREMENTS.—The minimum
8 requirements for a person to receive trade benefits
9 under the program under subsection (a) are the fol-
10 lowing:

11 “(A) The certification of the person as a
12 member of the Customs–Trade Partnership
13 Against Terrorism established under subtitle B
14 of title II of the Security and Accountability for
15 Every Port Act of 2006 (6 U.S.C. 961 et seq.)
16 or an equivalent certification in a successor pro-
17 gram.

18 “(B) A history of compliance by the person
19 with the customs and trade laws of the United
20 States and regulations of the U.S. Customs and
21 Border Protection Agency.

22 “(f) INTERAGENCY PROGRAM BENEFITS.—The Com-
23 missioner shall collaborate with the head of each Federal
24 agency with authority to detain and release merchandise
25 entering the United States to develop benefits to be pro-

1 vided to persons that receive trade benefits under the pro-
2 gram under subsection (a) and that import merchandise
3 into the United States that requires clearance by that
4 agency, including—

5 “(1) the submission to, and retrieval of infor-
6 mation from, that agency relating to the entry and
7 release of that merchandise through the Automated
8 Commercial Environment, or its predecessor, and
9 the International Trade Data System;

10 “(2) the preclearance of that merchandise by
11 that agency through the Automated Commercial En-
12 vironment or its predecessor to the extent possible;
13 and

14 “(3) any other benefits that the Commissioner
15 and the head of that agency determine appropriate.

16 “(g) CONFIDENTIAL INFORMATION SAFEGUARDS.—
17 The Commissioner, in consultation with the Customs Op-
18 erations Advisory Committee established under section
19 205 of the Trade Facilitation and Trade Enforcement Re-
20 authorization Act of 2013, shall establish procedures to
21 safeguard confidential data collected, stored, or shared
22 with the U.S. Customs and Border Protection Agency or
23 any other Federal agency pursuant to this section.

24 “(h) CUSTOMS AND TRADE LAWS OF THE UNITED
25 STATES DEFINED.—In this section, the term ‘customs

1 and trade laws of the United States’ has the meaning
2 given that term in section 2 of the Trade Facilitation and
3 Trade Enforcement Reauthorization Act of 2013.”.

4 (b) FEDERAL REGISTER NOTICE.—Not later than 90
5 days after the date of the enactment of this Act, the Com-
6 missioner shall publish a notice in the Federal Register
7 setting forth the requirements of section 499A of the Tar-
8 iff Act of 1930, as added by subsection (a), and seeking
9 public comments on the development and implementation
10 of the program under that section.

11 **SEC. 203. CENTERS OF EXCELLENCE AND EXPERTISE.**

12 The Commissioner shall, in consultation with private
13 sector entities, develop and implement Agency-wide Cen-
14 ters of Excellence and Expertise that—

15 (1) build the expertise of the U.S. Customs and
16 Border Protection Agency in particular industry op-
17 erations, supply chains, and compliance require-
18 ments;

19 (2) ensure the uniform implementation across
20 United States ports of entry of policies and regula-
21 tions affecting major import sectors;

22 (3) centralize decisionmaking of the Agency
23 that impacts particular industries;

24 (4) enhance trade facilitation and trade enforce-
25 ment; and

1 (5) formalize an account-based approach to the
2 importation of merchandise into the United States
3 by persons the Commissioner determines have a his-
4 tory of compliance with the customs and trade laws
5 of the United States.

6 **SEC. 204. MUTUAL RECOGNITION AGREEMENTS.**

7 (a) **NEGOTIATING OBJECTIVE.**—It shall be a negoti-
8 ating objective of the United States in any negotiation for
9 a mutual recognition agreement with a foreign country on
10 partnership programs, such as the Customs–Trade Part-
11 nership Against Terrorism established under subtitle B of
12 title II of the Security and Accountability for Every Port
13 Act of 2006 (6 U.S.C. 961 et seq.), to seek to ensure the
14 compatibility of the partnership programs of that country
15 with the partnership programs of the U.S. Customs and
16 Border Protection Agency to enhance trade facilitation
17 and trade enforcement.

18 (b) **CONSULTATIONS.**—Not later than 30 days before
19 entering into a mutual recognition agreement described in
20 subsection (a), the Secretary of Homeland Security shall
21 consult with the Committee on Finance of the Senate and
22 the Committee on Ways and Means of the House of Rep-
23 resentatives with respect to how the provisions of the
24 agreement will advance the security, trade facilitation, and

1 trade enforcement missions of the U.S. Customs and Bor-
2 der Protection Agency.

3 **SEC. 205. CUSTOMS OPERATIONS ADVISORY COMMITTEE.**

4 (a) ESTABLISHMENT.—Not later than December 31,
5 2013, the Secretary of the Treasury and the Secretary of
6 Homeland Security shall jointly establish a Customs Oper-
7 ations Advisory Committee (in this section referred to as
8 the “Advisory Committee”).

9 (b) MEMBERSHIP.—

10 (1) IN GENERAL.—The Advisory Committee
11 shall be comprised of—

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

14 (B) the Commissioner and the Assistant
15 Secretary for Tax Policy of the Department of
16 the Treasury, who shall jointly co-chair meet-
17 ings of the Advisory Committee; and

18 (C) the Assistant Secretary for Policy of
19 the Department of Homeland Security and the
20 Director of U.S. Immigration and Customs En-
21 forcement, who shall serve as deputy co-chairs
22 of meetings of the Advisory Committee.

23 (2) APPOINTMENT.—

24 (A) IN GENERAL.—Not later than 180
25 days after the date of the enactment of this

1 Act, the Secretary of the Treasury and the Sec-
2 retary of Homeland Security shall jointly ap-
3 point 20 individuals from the private sector to
4 the Advisory Committee, not more than 10 of
5 whom shall be of the same political party.

6 (B) TERMS.—Each individual appointed to
7 the Advisory Committee under this paragraph
8 shall be appointed for a term of up to 3 years,
9 and may be reappointed to subsequent terms,
10 but may not serve more than 2 terms sequen-
11 tially.

12 (3) QUALIFICATIONS.—The individuals ap-
13 pointed to the Advisory Committee shall be broadly
14 representative of the sectors of the United States
15 economy affected by the commercial operations of
16 the U.S. Customs and Border Protection Agency
17 and the investigations of the U.S. Immigration and
18 Customs Enforcement Agency.

19 (4) TRANSFER OF MEMBERSHIP.—The Sec-
20 retary of the Treasury and the Secretary of Home-
21 land Security may transfer members serving on the
22 Advisory Committee on Commercial Operations of
23 the United States Customs Service established under
24 section 9503(c) of the Omnibus Budget Reconcili-
25 ation Act of 1987 (19 U.S.C. 2071 note) on the day

1 before the date of the enactment of this Act to the
2 Advisory Committee established under subsection
3 (a).

4 (c) DUTIES.—The Advisory Committee established
5 under subsection (a) shall—

6 (1) advise the Secretary of the Treasury and
7 the Secretary of Homeland Security on all matters
8 involving the commercial operations of the U.S. Cus-
9 toms and Border Protection Agency and the inves-
10 tigations of the U.S. Immigration and Customs En-
11 forcement Agency, including advising with respect to
12 significant changes that are proposed with respect to
13 policies or regulations of either such Agency;

14 (2) provide recommendations to the Secretary
15 of the Treasury and the Secretary of Homeland Se-
16 curity on improvements to the commercial operations
17 of the U.S. Customs and Border Protection Agency
18 and the investigations of the U.S. Immigration and
19 Customs Enforcement Agency; and

20 (3) perform such other functions relating to the
21 commercial operations of the U.S. Customs and Bor-
22 der Protection Agency and the investigations of the
23 U.S. Immigration and Customs Enforcement Agency
24 as prescribed by law or as the Secretary of the

1 Treasury and the Secretary of Homeland Security
2 jointly direct.

3 (d) MEETINGS.—

4 (1) IN GENERAL.—The Advisory Committee
5 shall meet at the call of the Secretary of the Treas-
6 ury and the Secretary of Homeland Security or at
7 the call of not less than $\frac{2}{3}$ of the membership of the
8 Advisory Committee.

9 (2) NUMBER OF MEETINGS.—The Advisory
10 Committee shall, at a minimum, meet at least 4
11 times each calendar year. Additional meetings may
12 be called of such special task forces or other groups
13 made up of members of the Advisory Committee as
14 the Advisory Committee determines appropriate.

15 (3) ADDITION OF AGENDA ITEMS.—Any mem-
16 ber of the Advisory Committee may recommend ad-
17 ditional items for the agenda of a meeting before the
18 meeting.

19 (4) OPEN MEETINGS.—A meeting of the Advi-
20 sory Committee shall be open to the public unless
21 the Secretary of the Treasury and the Secretary of
22 Homeland Security determine that the meeting will
23 include matters the disclosure of which would seri-
24 ously compromise the development of policies, prior-
25 ities, or negotiating objectives or positions that could

1 impact the commercial operations of the U.S. Cus-
2 toms and Border Protection Agency or the investiga-
3 tions of the U.S. Immigration and Customs Enforce-
4 ment Agency.

5 (e) REPORTS.—

6 (1) ANNUAL REPORT.—Not later than Decem-
7 ber 31 of each calendar year, the Advisory Com-
8 mittee shall submit to the Committee on Finance of
9 the Senate and the Committee on Ways and Means
10 of the House of Representatives a report that—

11 (A) describes the activities of the Advisory
12 Committee during the preceding fiscal year; and

13 (B) sets forth any recommendations of the
14 Advisory Committee regarding the commercial
15 operations of the U.S. Customs and Border
16 Protection Agency and the investigations of the
17 U.S. Immigration and Customs Enforcement
18 Agency during the preceding fiscal year.

19 (2) ADDITIONAL REPORTS.—The members of
20 the Advisory Committee appointed under subsection
21 (b)(2) may submit directly to the Committee on Fi-
22 nance of the Senate and the Committee on Ways
23 and Means of the House of Representatives such ad-
24 ditional reports on the commercial operations of the
25 U.S. Customs and Border Protection Agency and

1 the investigations of the U.S. Immigration and Cus-
2 toms Enforcement Agency as such members deter-
3 mine appropriate.

4 (f) APPLICABILITY OF FEDERAL ADVISORY COM-
5 MITTEE ACT.—The provisions of the Federal Advisory
6 Committee Act (5 U.S.C. App.) shall apply to the Advisory
7 Committee, except as follows:

8 (1) Subsections (a) and (b) of section 10 of
9 such Act (relating to open meetings and availability
10 of information) shall not apply.

11 (2) Section 11 of such Act (relating to the
12 availability of transcripts of meetings) shall not
13 apply.

14 (3) Section 14(a)(2) of such Act (relating to
15 termination) shall be applied by substituting “4-year
16 period” for “two-year period”.

17 (g) CONFORMING REPEAL.—Effective January 31,
18 2014, section 9503(c) of the Omnibus Budget Reconcili-
19 ation Act of 1987 (19 U.S.C. 2071 note) is repealed.

20 (h) REFERENCES.—On or after January 31, 2014,
21 any reference in law to the Advisory Committee on Com-
22 mercial Operations of the United States Customs Service
23 established under section 9503(c) of the Omnibus Budget
24 Reconciliation Act of 1987 (19 U.S.C. 2071 note) shall

1 be deemed to be a reference to the Customs Operations
2 Advisory Committee established under subsection (a).

3 (i) CONFORMING AMENDMENTS.—

4 (1) SAFE PORT ACT.—The Security and Ac-
5 countability for Every Port Act of 2006 (6 U.S.C.
6 901 et seq.) is amended—

7 (A) in section 2, by striking paragraph (2)
8 and inserting the following:

9 “(2) CUSTOMS OPERATIONS ADVISORY COM-
10 MITTEE.—The term ‘Customs Operations Advisory
11 Committee’ means the Advisory Committee estab-
12 lished under section 205 of the Trade Facilitation
13 and Trade Enforcement Reauthorization Act of
14 2013 or any successor committee.”; and

15 (B) by striking “Commercial Operations
16 Advisory Committee” each place it appears and
17 inserting “Customs Operations Advisory Com-
18 mittee”.

19 (2) TARIFF ACT OF 1930.—Section 411(d) of
20 the Tariff Act of 1930 (19 U.S.C. 1411(d)) is
21 amended—

22 (A) in paragraph (1)(D), by striking
23 “Commercial Operations Advisory Committee”
24 and inserting “Customs Operations Advisory
25 Committee”; and

1 (B) by striking paragraph (7) and insert-
2 ing the following:

3 “(7) CUSTOMS OPERATIONS ADVISORY COM-
4 MITTEE DEFINED.—In this section, the term ‘Cus-
5 toms Operations Advisory Committee’ means the
6 Advisory Committee established under section 205 of
7 the Trade Facilitation and Trade Enforcement Re-
8 authorization Act of 2013 or any successor com-
9 mittee.”.

10 (3) EFFECTIVE DATE.—The amendments made
11 by this subsection shall take effect on January 1,
12 2014.

13 **SEC. 206. AUTOMATED COMMERCIAL ENVIRONMENT COM-**
14 **PUTER SYSTEM.**

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

18 (1) in subparagraph (A)—

19 (A) by striking “2003, 2004, and 2005”
20 and inserting “2014 through 2018”; and

21 (B) by striking “\$350,000,000” and in-
22 sserting “\$325,000,000”; and

23 (2) by striking subparagraph (B) and inserting
24 the following:

1 “(B)(i) From amounts that are available in the Ac-
2 count, there are authorized to be appropriated—

3 “(I) for each of fiscal years 2014 through 2016,
4 \$140,000,000 to complete the development of the
5 Automated Commercial Environment computer sys-
6 tem;

7 “(II) for each of fiscal years 2017 and 2018,
8 \$115,000,000 for the operation and maintenance of
9 the Automated Commercial Environment computer
10 system; and

11 “(III) for fiscal years 2014 through 2018, such
12 amounts as are available in the Account after the
13 obligation of amounts pursuant to the authorizations
14 of appropriations under subclauses (I) and (II) and
15 subparagraph (C) for other purposes related to the
16 functions of the Department of Homeland Security.

17 “(ii) Amounts authorized to be appropriated pursu-
18 ant to this subparagraph shall remain available until ex-
19 pendent.

20 “(iii) Not more than 1 percent of the amounts au-
21 thorized to be appropriated from the Account under sub-
22 clauses (I) and (II) of clause (i) may be used as matching
23 funds to assist Federal agencies (other than the Depart-
24 ment of Homeland Security) with authority to detain and
25 release merchandise entering the United States in devel-

1 oping their respective automated release programs that
2 are integrated with the Automated Commercial Environ-
3 ment computer system.”.

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

7 “(3) REPORT.—

8 “(A) IN GENERAL.—Not later than De-
9 cember 31, 2013, the Commissioner of U.S.
10 Customs and Border Protection shall submit to
11 the Committee on Appropriations and the Com-
12 mittee on Finance of the Senate and the Com-
13 mittee on Appropriations and the Committee on
14 Ways and Means of the House of Representa-
15 tives a report—

16 “(i) describing the plans of the U.S.
17 Customs and Border Protection Agency,
18 including deadlines, for incorporating all
19 cargo release data elements into the Auto-
20 mated Commercial Environment computer
21 system not later than September 30, 2015,
22 to conform with the admissibility criteria
23 of agencies participating in the Inter-
24 national Trade Data System identified

1 pursuant to subsection (d)(4)(A)(iii) of
2 section 411 of the Tariff Act of 1930;

3 “(ii) identifying the components of the
4 National Customs Automation Program
5 specified in subsection (a)(2) of such sec-
6 tion 411 that have not been implemented;

7 “(iii) identifying the priorities of the
8 Agency for incorporating entry summary
9 data elements, cargo manifest data ele-
10 ments, and cargo financial data elements
11 into the Automated Commercial Environ-
12 ment computer system;

13 “(iv) describing the objectives, plans,
14 and deadlines of the Agency for imple-
15 menting the components identified under
16 clause (ii) and the priorities identified
17 under cause (iii) not later than September
18 30, 2016; and

19 “(v) describing any additional compo-
20 nent of the National Customs Automation
21 Program initiated by the Commissioner to
22 complete the development, establishment,
23 and implementation of the Automated
24 Commercial Environment computer sys-
25 tem.

1 “(B) UPDATE OF REPORTS.—Not later
2 than June 30, 2014, and every 180 days there-
3 after, the Commissioner shall submit to the
4 Committee on Appropriations and the Com-
5 mittee on Finance of the Senate and the Com-
6 mittee on Appropriations and the Committee on
7 Ways and Means of the House of Representa-
8 tives an updated report addressing each of the
9 matters referred to in subparagraph (A).”.

10 (c) GOVERNMENT ACCOUNTABILITY OFFICE RE-
11 PORT.—Not later than one year after the date of the en-
12 actment of this Act, the Comptroller General of the United
13 States shall submit to the Committee on Appropriations
14 and the Committee on Finance of the Senate and the
15 Committee on Appropriations and the Committee on Ways
16 and Means of the House of Representatives a report—

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

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

1 (3) assessing the progress of other Federal
2 agencies in accessing and utilizing the Automated
3 Commercial Environment computer system.

4 **SEC. 207. INTERNATIONAL TRADE DATA SYSTEM.**

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

8 (1) by redesignating paragraphs (4) through
9 (7) as paragraphs (5) through (8), respectively; and
10 (2) by inserting after paragraph (3) the fol-
11 lowing:

12 “(4) INFORMATION TECHNOLOGY INFRASTRUC-
13 TURE.—

14 “(A) IN GENERAL.—The Secretary shall
15 work with the head of each agency participating
16 in the ITDS and the Interagency Steering
17 Committee to ensure that each such agency—

18 “(i) develops and maintains the nec-
19 essary information technology infrastruc-
20 ture to support the operation of the ITDS
21 and to submit all data to the ITDS elec-
22 tronically;

23 “(ii) enters into a memorandum of
24 understanding, or takes such other action
25 as is necessary, to provide for the informa-

1 tion sharing between the agency and the
2 U.S. Customs and Border Protection
3 Agency necessary for the operation and
4 maintenance of the ITDS; and

5 “(iii) not later than June 30, 2014,
6 identifies and transmits to the Commis-
7 sioner of U.S. Customs and Border Protec-
8 tion the admissibility criteria and data ele-
9 ments required by the agency to authorize
10 the release of cargo by the U.S. Customs
11 and Border Protection Agency for incorpo-
12 ration into the operational functionality of
13 the Automated Commercial Environment
14 computer system.

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

20 (b) AUTHORIZATION OF APPROPRIATIONS.—Section
21 13031(f)(5) of the Consolidated Omnibus Budget Rec-
22 onciliation Act of 1985 (19 U.S.C. 58c(f)(5)), as amended
23 by section 206(a), is further amended by striking subpara-
24 graph (C) and inserting the following:

1 “(C) There are authorized to be appropriated to the
2 Secretary of the Treasury from amounts available in the
3 Account \$25,000,000 for each of fiscal years 2014
4 through 2018, to remain available until expended, to carry
5 out the provisions of section 411(d)(4) of the Tariff Act
6 of 1930.”.

7 (c) GOVERNMENT ACCOUNTABILITY OFFICE RE-
8 PORT.—Not later than June 30, 2015, the Comptroller
9 General of the United States shall submit to the Com-
10 mittee on Appropriations and the Committee on Finance
11 of the Senate and the Committee on Appropriations and
12 the Committee on Ways and Means of the House of Rep-
13 resentatives a report—

14 (1) evaluating the development and mainte-
15 nance of the information technology infrastructure
16 necessary to support the operations of the Inter-
17 national Trade Data System; and

18 (2) assessing the number of memoranda of un-
19 derstanding and other actions taken by the U.S.
20 Customs and Border Protection Agency and other
21 Federal agencies to ensure the sharing of electronic
22 import and export data.

1 **SEC. 208. ELECTRONIC SUBMISSION OF PUBLIC COM-**
 2 **MENTS.**

3 Not later than one year after the date of the enact-
 4 ment of this Act, the Commissioner shall provide—

5 (1) for the electronic submission and posting of
 6 any public comments solicited by the U.S. Customs
 7 and Border Protection Agency on the Internet
 8 website of the Agency; and

9 (2) for the prompt posting of public comments
 10 associated with any rulemaking of the Agency on the
 11 Federal Government Internet website for Federal
 12 regulations, www.regulations.gov, or any successor
 13 website.

14 **Subtitle B—Trade Enforcement**

15 **CHAPTER 1—COMMERCIAL TARGETING**

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

18 (a) ESTABLISHMENT OF COMMERCIAL TARGETING
 19 DIVISION.—

20 (1) IN GENERAL.—The Secretary of Homeland
 21 Security shall establish and maintain within the Of-
 22 fice of Trade of the U.S. Customs and Border Pro-
 23 tection Agency, established under section 4 of the
 24 Act of March 3, 1927, as added by section 102, a
 25 Commercial Targeting Division.

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

3 (A) headquarters personnel led by an Ex-
4 ecutive Director, who shall report to the Assist-
5 ant Commissioner for Trade; and

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

10 (3) DUTIES.—The Commercial Targeting Divi-
11 sion shall be dedicated—

12 (A) to the development and conduct of
13 commercial targeting with respect to cargo des-
14 tined for the United States in accordance with
15 subsection (c); and

16 (B) to issuing Trade Alerts described in
17 subsection (d).

18 (b) NATIONAL TARGETING AND ANALYSIS
19 GROUPS.—

20 (1) IN GENERAL.—The Commissioner shall de-
21 termine the priorities of the National Targeting and
22 Analysis Groups referred to in subsection (a)(2)(B),
23 to include the enforcement, with respect to the im-
24 portation of merchandise into the United States,
25 of—

- 1 (A) intellectual property rights;
- 2 (B) health and safety laws and regulations;
- 3 (C) agriculture-related laws and regula-
- 4 tions;
- 5 (D) textile- and apparel-related laws and
- 6 regulations;
- 7 (E) general revenue laws and regulations;
- 8 and
- 9 (F) non-general revenue laws and regula-
- 10 tions, including with respect to antidumping
- 11 and countervailing duties.

12 (c) COMMERCIAL TARGETING.—In carrying out its

13 duties with respect to commercial targeting, the Commer-

14 cial Targeting Division shall—

15 (1) establish targeting methodologies and

16 standards for—

17 (A) assessing the risk that cargo destined

18 for the United States may violate the customs

19 and trade laws of the United States; and

20 (B) issuing, as appropriate, Trade Alerts

21 described in subsection (d);

22 (2) to the extent practicable and otherwise au-

23 thorized by law, use, to administer the methodologies

24 and standards established under paragraph (1)—

25 (A) publicly available information;

1 (B) information available from the Auto-
2 mated Commercial System, the Automated
3 Commercial Environment computer system, the
4 Automated Targeting System, the Automated
5 Export System, the International Trade Data
6 System, the TECS (formerly known as the
7 “Treasury Enforcement Communications Sys-
8 tem”), and the case management system of the
9 U.S. Immigration and Customs Enforcement
10 Agency, and any successors to those systems;
11 and

12 (C) information made available to the
13 Commercial Targeting Division, including infor-
14 mation provided by private sector entities; and

15 (3) coordinate targeting efforts with other Fed-
16 eral agencies with authority to detain and release
17 merchandise entering the United States.

18 (d) TRADE ALERTS.—

19 (1) ISSUANCE.—Based upon the application of
20 the targeting methodologies and standards estab-
21 lished under subsection (c), the Executive Director
22 of the Commercial Targeting Division and the Direc-
23 tors of the National Targeting and Analysis Groups
24 may issue Trade Alerts to port directors providing
25 guidance for further inspection, physical examina-

1 tion, or testing, of specific merchandise if certain
2 risk-assessment thresholds are met to improve com-
3 pliance with the customs and trade laws of the
4 United States and regulations administered by the
5 U.S. Customs and Border Protection Agency.

6 (2) DETERMINATIONS NOT TO IMPLEMENT
7 TRADE ALERTS.—A port director may determine not
8 to follow a Trade Alert issued under paragraph (1)
9 that requires further inspection, physical examina-
10 tion, or testing if the port director—

11 (A) finds that such a determination is jus-
12 tified by security interests; and

13 (B) notifies the Trade Facilitation and
14 Trade Enforcement Division of the Office of
15 Field Operations of the determination not to
16 follow the Trade Alert and the reasons for the
17 determination not later than 48 hours after
18 making the determination.

19 (3) SUMMARY OF DETERMINATIONS NOT TO IM-
20 PLEMENT.—The Trade Facilitation and Trade En-
21 forcement Division shall—

22 (A) compile an annual summary of all de-
23 terminations by port directors under paragraph
24 (2) and the reasons for those determinations;

1 (B) conduct an evaluation of the utilization
2 of Trade Alerts issued under paragraph (1);
3 and

4 (C) submit the summary compiled under
5 subparagraph (A) and the evaluation conducted
6 under subparagraph (B) to the Committee on
7 Finance of the Senate and the Committee on
8 Ways and Means of the House of Representa-
9 tives not later than December 31 of each year.

10 (4) INSPECTION DEFINED.—In this subsection,
11 the term “inspection” means the comprehensive
12 evaluation process used by the U.S. Customs and
13 Border Protection Agency, other than physical ex-
14 amination or testing, to permit the entry of mer-
15 chandise into the United States, or the clearance of
16 merchandise for transportation in bond through the
17 United States, for purposes of—

18 (A) assessing duties;

19 (B) identifying restricted or prohibited
20 items; and

21 (C) ensuring compliance with the customs
22 and trade laws of the United States and regula-
23 tions administered by the Agency.

24 (e) USE OF TRADE DATA FOR COMMERCIAL EN-
25 FORCEMENT PURPOSES.—Section 343(a)(3)(F) of the

1 Trade Act of 2002 (19 U.S.C. 2071 note) is amended to
2 read as follows:

3 “(F) The information collected pursuant to
4 the regulations shall be used for ensuring avia-
5 tion, maritime, and surface transportation safe-
6 ty and security, and may be used for commer-
7 cial enforcement purposes. A person that pro-
8 vides information pursuant to the regulations
9 that is used to detect a violation of any statute
10 or regulation relating to commercial enforce-
11 ment shall be subject to commercial penalties
12 pursuant to that statute or regulation only if
13 the person is found to have committed fraud in
14 providing the information.”.

15 **SEC. 212. ANNUAL ILLEGAL DRUG CONTROL LAW EN-**
16 **FORCEMENT STRATEGY.**

17 (a) IN GENERAL.—Section 123 of the Customs and
18 Trade Act of 1990 (19 U.S.C. 2083) is amended to read
19 as follows:

20 **“SEC. 123. ANNUAL ILLEGAL DRUG CONTROL LAW EN-**
21 **FORCEMENT STRATEGY.**

22 “(a) REPORTS ON VIOLATION ESTIMATES.—Not
23 later than one year after the date of the enactment of the
24 Trade Facilitation and Trade Enforcement Reauthoriza-
25 tion Act of 2013, and annually thereafter, the Commis-

1 sioner of U.S. Customs and Border Protection and the Di-
2 rector of U.S. Immigration and Customs Enforcement
3 shall jointly develop and submit to the chairperson and
4 ranking member of the Committee on Finance of the Sen-
5 ate and of the Committee on Ways and Means of the
6 House of Representatives (in this section referred to as
7 the ‘Committees’) in accordance with subsection (d) a re-
8 port that contains an estimate of—

9 “(1) the number and extent of violations of the
10 illegal drug control laws specified in subsection (b)
11 that are likely to occur during the year following the
12 report; and

13 “(2) the relative incidence of the violations de-
14 scribed in paragraph (1) among the various United
15 States ports of entry and customs regions within the
16 customs territory of the United States during the
17 year preceding the report.

18 “(b) ILLEGAL DRUG CONTROL LAWS SPECIFIED.—
19 The Commissioner of U.S. Customs and Border Protec-
20 tion and the Director of U.S. Immigration and Customs
21 Enforcement, after consultation with the Committees—

22 “(1) shall, not later than 180 days after the
23 date of the enactment of the Trade Facilitation and
24 Trade Enforcement Reauthorization Act of 2013,
25 prepare a list of those provisions of the illegal drug

1 control laws of the United States with respect to
2 which the U.S. Customs and Border Protection
3 Agency and the U.S. Immigration and Customs En-
4 forcement Agency have enforcement responsibility
5 and to which the reports required by subsection (a)
6 will apply; and

7 “(2) may periodically update the list developed
8 under paragraph (1), as warranted.

9 “(c) ENFORCEMENT STRATEGY.—Not later than 90
10 days after submitting a report under subsection (a), the
11 Commissioner of U.S. Customs and Border Protection and
12 the Director of U.S. Immigration and Customs Enforce-
13 ment shall jointly—

14 “(1) develop or update a strategy for enforcing
15 the illegal drug control laws specified in subsection
16 (b) in a nationally uniform manner and addressing
17 the violations estimated in the report during the pe-
18 riod covered by the report; and

19 “(2) submit to the chairperson and ranking
20 member of each of the Committees a confidential re-
21 port setting forth the details of the strategy de-
22 scribed in paragraph (1).

23 “(d) CONFIDENTIALITY.—The contents of any report
24 submitted to the chairperson and ranking member of each
25 of the Committees under subsection (a) or (c) are con-

1 fidential and the disclosure of the contents is restricted
2 to—

3 “(1) officers and employees of the United
4 States designated by the Commissioner of U.S. Cus-
5 toms and Border Protection or the Director of U.S.
6 Customs and Immigration Enforcement to have ac-
7 cess to the contents of the report;

8 “(2) the chairperson and ranking member of
9 each of the Committees; and

10 “(3) such Members of Congress and staff of
11 such Members as the chairperson or ranking mem-
12 ber of either of the Committees may authorize to
13 have access to the contents of the report.”.

14 (b) CONFORMING AMENDMENT.—The table of con-
15 tents for the Customs and Trade Act of 1990 is amended
16 by striking the item relating to section 123 and inserting
17 the following:

“Sec. 123. Annual illegal drug control law enforcement strategy.”.

18 **SEC. 213. REPORT ON OVERSIGHT OF REVENUE PROTEC-**
19 **TION AND ENFORCEMENT MEASURES BY THE**
20 **INSPECTOR GENERAL.**

21 Not later than June 30, 2015, the Inspector General
22 of the Department of the Treasury shall submit to the
23 Committee on Finance of the Senate and the Committee
24 on Ways and Means of the House of Representatives a
25 report assessing the following:

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

4 (A) the collection of countervailing and
5 antidumping duties;

6 (B) the assessment and collection of com-
7 mercial fines and penalties; and

8 (C) the adequacy of the policies of the
9 Agency with respect to monitoring and tracking
10 of merchandise transported in bond and col-
11 lecting duties, as appropriate.

12 (2) The effectiveness of actions taken by the
13 Agency to measure accountability and performance
14 with respect to revenue protection.

15 (3) The number of entries resulting in the un-
16 derpayment of duties and a summary of the actions
17 taken to address the underpayment of duties.

18 (4) The effectiveness of training with respect to
19 the collection of duties provided for personnel of the
20 Agency.

21 **SEC. 214. REPORT ON SECURITY AND REVENUE MEASURES**
22 **WITH RESPECT TO MERCHANDISE TRANS-**
23 **PORTED IN BOND.**

24 (a) IN GENERAL.—Not later than December 31 of
25 2014, 2015, and 2016, the Secretary of Homeland Secu-

1 rity and the Secretary of the Treasury shall jointly submit
2 to the Committee on Finance of the Senate and the Com-
3 mittee on Ways and Means of the House of Representa-
4 tives a report on efforts undertaken by the U.S. Customs
5 and Border Protection Agency to ensure the secure trans-
6 portation of merchandise in bond through the United
7 States and the collection of revenue owed upon the entry
8 of such merchandise into the United States for consump-
9 tion.

10 (b) CONTENTS.—The report required by subsection
11 (a) shall include information, for the 2 fiscal years pre-
12 ceding the submission of the report, on—

13 (1) the overall number of entries of merchan-
14 dise for transportation in bond through the United
15 States;

16 (2) the ports at which merchandise arrives in
17 the United States for transportation in bond and at
18 which records of the arrival of such merchandise are
19 generated;

20 (3) the average time taken to reconcile such
21 records with the records at the final destination of
22 the merchandise in the United States to demonstrate
23 that the merchandise reaches its final destination or
24 is reexported;

1 (4) the average time taken to transport mer-
2 chandise in bond from the port at which the mer-
3 chandise arrives in the United States to the final
4 destination of the merchandise in the United States;

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

9 (6) the total number of notifications by carriers
10 of merchandise being transported in bond that the
11 destination of the merchandise has changed while in
12 transit in the United States; and

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

15 **SEC. 215. IMPORTER OF RECORD PROGRAM.**

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

21 (b) REQUIREMENTS.—The Secretary of Homeland
22 Security shall ensure that, as part of the importer of
23 record program, the U.S. Customs and Border Protection
24 Agency—

1 (1) develops criteria that importers must meet
2 in order to obtain an importer of record number;

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

5 (3) maintains a centralized database of im-
6 porter of record numbers, including a history of im-
7 porter of record numbers associated with each im-
8 porter;

9 (4) evaluates the accuracy of the database on a
10 regular basis; and

11 (5) takes measures to ensure that duplicate im-
12 porter of record numbers are not issued to the same
13 importer.

14 (c) REPORT.—Not later than one year after the date
15 of the enactment of this Act, the Secretary of Homeland
16 Security shall submit to the Committee on Finance of the
17 Senate and the Committee on Ways and Means of the
18 House of Representatives a report on the importer of
19 record program established under subsection (a).

20 (d) NUMBER DEFINED.—In this subsection, the term
21 “number”, with respect to an importer of record, means
22 a filing identification number described in section 24.5 of
23 title 19, Code of Federal Regulations (or any cor-
24 responding similar regulation).

1 **CHAPTER 2—IMPORT HEALTH AND**
2 **SAFETY**

3 **SEC. 221. INTERAGENCY IMPORT SAFETY WORKING GROUP.**

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

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

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

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

13 (3) The Secretary of the Treasury.

14 (4) The Secretary of Commerce.

15 (5) The Secretary of Agriculture.

16 (6) The United States Trade Representative.

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

19 (8) The Commissioner of Food and Drugs.

20 (9) The Commissioner of U.S. Customs and
21 Border Protection.

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

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

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

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

7 (1) consulting on the development of the joint
8 import safety rapid response plan required by sec-
9 tion 222;

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

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

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

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

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

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

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

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

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

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

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

12 **SEC. 222. JOINT IMPORT SAFETY RAPID RESPONSE PLAN.**

13 (a) IN GENERAL.—Not later than December 31,
14 2014, the Secretary of Homeland Security, in consultation
15 with the interagency Import Safety Working Group, shall
16 develop a plan (to be known as the “joint import safety
17 rapid response plan”) that sets forth protocols and defines
18 practices for the U.S. Customs and Border Protection
19 Agency to use—

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

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

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

6 (1) the statutory and regulatory authorities and
7 responsibilities of the U.S. Customs and Border Pro-
8 tection Agency and other Federal agencies in re-
9 sponding to an incident described in subsection
10 (a)(1);

11 (2) the protocols and practices to be used by
12 the Agency when taking action in response to, and
13 coordinating Federal responses to, such an incident;

14 (3) the measures to be taken by the Agency and
15 other Federal agencies in recovering from or miti-
16 gating the effects of actions taken in response to
17 such an incident after the incident to ensure the re-
18 sumption of the entry of merchandise into the
19 United States; and

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

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

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

3 (d) IMPORT HEALTH AND SAFETY EXERCISES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (ii) foreign governments; and

7 (iii) private sector entities; and

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

11 **SEC. 223. TRAINING.**

12 The Commissioner shall ensure that personnel of the
13 U.S. Customs and Border Protection Agency assigned to
14 United States ports of entry are trained to effectively ad-
15 minister the provisions of this chapter and to otherwise
16 assist in ensuring the safety of merchandise imported into
17 the United States and the expeditious entry of such mer-
18 chandise.

1 **CHAPTER 3—IMPORT-RELATED PROTEC-**
2 **TION OF INTELLECTUAL PROPERTY**
3 **RIGHTS**

4 **Subchapter A—National Intellectual**
5 **Property Rights Coordination Center**

6 **SEC. 231. NATIONAL INTELLECTUAL PROPERTY RIGHTS**
7 **COORDINATION CENTER.**

8 (a) **ESTABLISHMENT.**—The Secretary of Homeland
9 Security shall—

10 (1) establish within the U.S. Immigration and
11 Customs Enforcement Agency a National Intellec-
12 tual Property Rights Coordination Center; and

13 (2) appoint an Assistant Director to head the
14 National Intellectual Property Rights Coordination
15 Center.

16 (b) **DUTIES.**—The Assistant Director of the National
17 Intellectual Property Rights Coordination Center shall—

18 (1) coordinate the investigation of sources of
19 merchandise that infringes intellectual property
20 rights to identify organizations that produce, smug-
21 gle, or distribute such merchandise;

22 (2) coordinate training with other domestic and
23 international law enforcement agencies on investiga-
24 tive best practices—

1 (A) to develop and expand the capability of
2 such agencies to enforce intellectual property
3 rights; and

4 (B) to develop metrics to assess whether
5 the training improved enforcement of intellec-
6 tual property rights;

7 (3) coordinate, with the U.S. Customs and Bor-
8 der Protection Agency, activities conducted by the
9 United States to prevent the importation or expor-
10 tation of merchandise that infringes intellectual
11 property rights;

12 (4) support the international interdiction of
13 merchandise destined for the United States that in-
14 fringes intellectual property rights;

15 (5) collect and integrate information regarding
16 infringements of intellectual property rights from do-
17 mestic and international law enforcement agencies
18 and other non-Federal sources;

19 (6) develop a single platform or portal to re-
20 ceive information regarding infringements of intellec-
21 tual property rights from such agencies and other
22 sources and a database to organize and search that
23 information;

1 (7) disseminate information regarding infringe-
2 ments of intellectual property rights to other Federal
3 agencies, as appropriate;

4 (8) develop and implement risk-based alert sys-
5 tems to be shared with the U.S. Customs and Bor-
6 der Protection Agency to improve the targeting of
7 persons that repeatedly infringe intellectual property
8 rights;

9 (9) coordinate with the United States attorneys'
10 offices to develop expertise in, and assist with the in-
11 vestigation and prosecution of, crimes relating to the
12 infringement of intellectual property rights; and

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

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

19 (1) the U.S. Customs and Border Protection
20 Agency;

21 (2) the Food and Drug Administration;

22 (3) the Department of Justice;

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

25 (5) the United States Postal Inspection Service;

1 (6) the Office of the United States Trade Rep-
2 representative;

3 (7) any Federal, State, local, or international
4 law enforcement agencies the Director of U.S. Immi-
5 gration and Customs Enforcement considers appro-
6 priate; and

7 (8) any other entities the Director considers ap-
8 propriate.

9 (d) PRIVATE SECTOR OUTREACH.—

10 (1) IN GENERAL.—The Assistant Director of
11 the National Intellectual Property Rights Coordina-
12 tion Center shall work with the U.S. Customs and
13 Border Protection Agency and other Federal agen-
14 cies to conduct outreach to private sector entities to
15 determine trends in and methods of infringing intel-
16 lectual property rights.

17 (2) INFORMATION SHARING.—The Assistant Di-
18 rector shall share information and best practices
19 with respect to the enforcement of intellectual prop-
20 erty rights with private sector entities, as appro-
21 priate, to coordinate public and private sector efforts
22 to combat the infringement of intellectual property
23 rights.

1 **Subchapter B—Amendments to the Tariff Act**
2 **of 1930**

3 **SEC. 241. PROVISION TO RIGHTS OWNERS OF INFORMA-**
4 **TION ABOUT AND SAMPLES OF MERCHAN-**
5 **DISE SUSPECTED OF INFRINGING TRADE-**
6 **MARKS OR COPYRIGHTS.**

7 The Tariff Act of 1930 is amended by inserting after
8 section 526 (19 U.S.C. 1526) the following:

9 **“SEC. 526A. PROVISION TO RIGHTS OWNERS OF INFORMA-**
10 **TION ABOUT AND SAMPLES OF MERCHAN-**
11 **DISE SUSPECTED OF INFRINGING TRADE-**
12 **MARKS OR COPYRIGHTS.**

13 “(a) IN GENERAL.—Subject to subsections (c) and
14 (d), if the Commissioner of U.S. Customs and Border Pro-
15 tection suspects that merchandise is being imported into
16 the United States in violation of section 526 or section
17 602, 1201(a)(1), or 1201(b)(1) of title 17, United States
18 Code, and determines that the examination or testing of
19 the merchandise by a person described in subsection (b)
20 would assist the Commissioner in determining if the mer-
21 chandise is being imported in violation of that section, the
22 Commissioner, to permit the person to conduct the exam-
23 ination and testing—

24 “(1) shall provide to the person information
25 that appears on the merchandise and its packaging

1 and labels, including unredacted images of the mer-
2 chandise and its packaging and labels; and

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

6 “(b) PERSON DESCRIBED.—A person described in
7 this subsection is—

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

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

16 “(3) in the case of merchandise suspected of
17 being primarily designed or produced for the pur-
18 pose of circumventing a technological measure that
19 effectively controls access to a work protected under
20 that title, and being imported in violation of section
21 1201(a)(2) of that title, the owner of a copyright in
22 the work; and

23 “(4) in the case of merchandise suspected of
24 being primarily designed or produced for the pur-
25 pose of circumventing protection afforded by a tech-

1 nological measure that effectively protects a right of
2 an owner of a copyright in a work or a portion of
3 a work, and being imported in violation of section
4 1201(b)(1) of that title, the owner of the copyright.

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

9 “(d) EXCEPTION.—The Commissioner of U.S. Cus-
10 toms and Border Protection may not provide under sub-
11 section (a) information, photographs, or samples to a per-
12 son described in subsection (b) if providing such informa-
13 tion, photographs, or samples would compromise an ongo-
14 ing law enforcement investigation or national security.”.

15 **SEC. 242. ENFORCEMENT BY THE U.S. CUSTOMS AND BOR-**
16 **DER PROTECTION AGENCY OF WORKS FOR**
17 **WHICH A COPYRIGHT REGISTRATION IS**
18 **PENDING.**

19 Not later than 180 days after the date of the enact-
20 ment of this Act, the Secretary of Homeland Security shall
21 establish a process pursuant to which the Commissioner
22 shall enforce a copyright for which the owner has sub-
23 mitted an application for registration under title 17,
24 United States Code, with the Copyright Office of the Li-
25 brary of Congress to the same extent and in the same

1 manner as if the copyright were registered with the Copy-
2 right Office, including by sharing information, images,
3 and samples of merchandise suspected of infringing the
4 copyright under section 526A of the Tariff Act of 1930,
5 as added by section 241.

6 **SEC. 243. SEIZURE OF CIRCUMVENTION DEVICES.**

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

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

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

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

13 “(G) the U.S. Customs and Border Protec-
14 tion Agency determines it is a technology, prod-
15 uct, service, device, component, or part thereof
16 the importation of which is prohibited under
17 subsection (a)(2) or (b)(1) of section 1201 of
18 title 17, United States Code.”.

19 (b) PUBLICATION.—

20 (1) IN GENERAL.—Except as provided in para-
21 graph (2), not later than 30 days after seizing mer-
22 chandise pursuant to subparagraph (G) of section
23 596(c)(2) of the Tariff Act of 1930, as added by
24 subsection (a), the Commissioner shall publish on
25 the Internet website of the U.S. Customs and Bor-

1 der Protection Agency information regarding the
2 merchandise seized to permit any person to identify
3 the merchandise and determine whether the mer-
4 chandise is—

5 (A) a technology, product, service, device,
6 component, or part thereof described in section
7 1201(a)(2) of title 17, United States Code,
8 that—

9 (i) is primarily designed or produced
10 for the purpose of circumventing a techno-
11 logical measure that effectively controls ac-
12 cess to a work for which the person has a
13 copyright that is registered under title 17,
14 United States Code, or that is otherwise
15 recorded with the Agency;

16 (ii) has only limited commercially sig-
17 nificant purpose or use other than to cir-
18 cumvent such a technological measure; or

19 (iii) is marketed for use in circum-
20 venting such a technological measure; or

21 (B) a technology, product, service, device,
22 component, or part thereof described in section
23 1201(b)(1) of title 17, United States Code,
24 that—

1 (i) is primarily designed or produced
2 for the purpose of circumventing protection
3 afforded by a technological measure that
4 effectively protects a right of the person in
5 a work or a portion of a work that is reg-
6 istered under title 17, United States Code,
7 or that is otherwise recorded with the
8 Agency;

9 (ii) has only limited commercially sig-
10 nificant purpose or use other than to cir-
11 cumvent protection afforded by such a
12 technological measure; or

13 (iii) is marketed for use in circum-
14 venting protection afforded such a techno-
15 logical measure.

16 (2) EXCEPTION.—The Commissioner may not
17 publish information under paragraph (1) if pub-
18 lishing that information would compromise an ongo-
19 ing law enforcement investigation or national secu-
20 rity.

21 (c) APPLICATION.—Not later than 30 days after pub-
22 lishing the information required under subsection (b) with
23 respect to seized merchandise, any person that determines
24 that the seized merchandise is merchandise that infringes
25 a right of the person as described in subsection (b) (or

1 an agent of such a person) may submit to the U.S. Cus-
2 toms and Border Protection Agency an application that—

3 (1) identifies the person as a person that holds
4 such a right (or an agent of such a person); and

5 (2) requests the information described in sub-
6 section (d).

7 (d) DISCLOSURE.—Subject to subsection (f), the
8 Commissioner shall disclose to a person that submitted an
9 application described in subsection (c) with respect to
10 seized merchandise the following information:

11 (1) The date of importation of the seized mer-
12 chandise.

13 (2) The United States port of entry at which
14 the merchandise was seized.

15 (3) A description of the merchandise.

16 (4) The quantity of merchandise seized.

17 (5) The country of origin of the merchandise.

18 (6) The name and address of the foreign manu-
19 facturer of the merchandise.

20 (7) The name and address of the exporter of
21 the merchandise.

22 (8) The name and address of the importer of
23 the merchandise.

24 (e) EXPEDITED DISCLOSURE.—Subject to subsection
25 (f), the Commissioner may, on an expedited basis, disclose

1 information pursuant to subsection (d) with respect to
2 merchandise seized pursuant to subparagraph (G) of sec-
3 tion 526(c)(2) of the Tariff Act of 1930, as added by sub-
4 section (a), and with respect to which information is pub-
5 lished pursuant to subsection (b), to a person that has
6 previously submitted an application under subsection (c)
7 with respect to such merchandise.

8 (f) LIMITATION ON DISCLOSURE.—The Commis-
9 sioner may not disclose information under subsection (d)
10 or (e) with respect to merchandise seized pursuant to sub-
11 paragraph (G) of section 526(c)(2) of the Tariff Act of
12 1930, as added by subsection (a), until the Commissioner
13 has made a final determination with respect to whether
14 the merchandise is a technology, product, service, device,
15 component, or part thereof the importation of which is
16 prohibited under subsection (a)(2) or (b)(1) of section
17 1201 of title 17, United States Code.

18 **Subchapter C—Other Matters**

19 **SEC. 251. DEFINITION OF INTELLECTUAL PROPERTY** 20 **RIGHTS.**

21 In this subchapter, the term “intellectual property
22 rights” refers to copyrights, trademarks, and other forms
23 of intellectual property rights that are enforced by the
24 U.S. Customs and Border Protection Agency or the U.S.
25 Immigration and Customs Enforcement Agency.

1 **SEC. 252. JOINT STRATEGIC PLAN FOR THE ENFORCEMENT**
2 **OF INTELLECTUAL PROPERTY RIGHTS.**

3 The Commissioner and the Director of U.S. Immigra-
4 tion and Customs Enforcement shall include in the joint
5 strategic plan on trade facilitation and trade enforcement
6 required by section 123A of the Customs and Trade Act
7 of 1990, as amended by section 131—

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

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

17 (3) a recommendation for the optimal allocation
18 of personnel, resources, and technology to ensure
19 that the U.S. Customs and Border Protection Agen-
20 cy and the U.S. Immigration and Customs Enforce-
21 ment Agency are adequately enforcing intellectual
22 property rights.

23 **SEC. 253. PERSONNEL DEDICATED TO THE ENFORCEMENT**
24 **OF INTELLECTUAL PROPERTY RIGHTS.**

25 (a) **PERSONNEL OF THE U.S. CUSTOMS AND BORDER**
26 **PROTECTION AGENCY.**—The Commissioner and the Di-

1 rector of U.S. Immigration and Customs Enforcement
2 shall ensure that sufficient personnel are assigned
3 throughout the U.S. Customs and Border Protection
4 Agency and the U.S. Immigration and Customs Enforce-
5 ment Agency, respectively, who have responsibility for pre-
6 venting the importation of merchandise that infringes in-
7 tellectual property rights into the United States.

8 (b) STAFFING OF NATIONAL INTELLECTUAL PROP-
9 erty Rights Coordination Center.—The Commis-
10 sioner shall—

11 (1) assign not fewer than 3 full-time employees
12 of the U.S. Customs and Border Protection Agency
13 to the National Intellectual Property Rights Coordi-
14 nation Center established under section 231; and

15 (2) ensure that sufficient personnel are as-
16 signed to United States ports of entry to carry out
17 the directives of the Center.

18 **SEC. 254. TRAINING WITH RESPECT TO THE ENFORCEMENT**
19 **OF INTELLECTUAL PROPERTY RIGHTS.**

20 (a) TRAINING.—The Commissioner shall ensure that
21 officers of the U.S. Customs and Border Protection Agen-
22 cy are trained to effectively detect and identify merchan-
23 dise destined for the United States that infringes intellec-
24 tual property rights, including through the use of tech-
25 nologies identified under subsection (c).

1 (b) CONSULTATION WITH PRIVATE SECTOR.—The
2 Commissioner shall consult with private sector entities to
3 better identify opportunities for collaboration between the
4 U.S. Customs and Border Protection Agency and such en-
5 tities with respect to training for officers of the Agency
6 to enforce intellectual property rights.

7 (c) IDENTIFICATION OF NEW TECHNOLOGIES.—In
8 consultation with private sector entities, the Commissioner
9 shall identify—

10 (1) technologies with the cost-effective capa-
11 bility to detect and identify merchandise at United
12 States ports of entry that infringes intellectual prop-
13 erty rights; and

14 (2) cost-effective programs for training officers
15 of the U.S. Customs and Border Protection Agency
16 to use such technologies.

17 (d) DONATIONS OF TECHNOLOGY.—Not later than
18 180 days after the date of the enactment of this Act, the
19 Commissioner shall promulgate regulations to enable the
20 U.S. Customs and Border Protection Agency to receive do-
21 nations of hardware, software, equipment, and similar
22 technologies, and to accept training and other support
23 services from private sector entities, for the purpose of en-
24 forcing intellectual property rights.

1 **SEC. 255. INFORMATION FOR TRAVELERS REGARDING VIO-**
2 **LATIONS OF INTELLECTUAL PROPERTY**
3 **RIGHTS.**

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

12 (b) DECLARATION FORMS.—The Commissioner shall
13 ensure that all versions of Declaration Form 6059B of the
14 U.S. Customs and Border Protection Agency, or a suc-
15 cessor form, printed on or after the date that is 30 days
16 after the date of the enactment of this Act include a writ-
17 ten warning to inform travelers arriving in the United
18 States that importation of merchandise into the United
19 States that infringes intellectual property rights may sub-
20 ject travelers to civil or criminal penalties and may pose
21 serious risks to safety or health.

22 **SEC. 256. INTERNATIONAL COOPERATION AND INFORMA-**
23 **TION SHARING.**

24 (a) COOPERATION.—The Secretary of Homeland Se-
25 curity shall coordinate with the competent law enforce-
26 ment and customs authorities of foreign countries, includ-

1 ing by sharing information relevant to enforcement ac-
2 tions, to enhance the efforts of United States and such
3 authorities to enforce intellectual property rights.

4 (b) TECHNICAL ASSISTANCE.—The Secretary of
5 Homeland Security shall provide technical assistance to
6 competent law enforcement and customs authorities of for-
7 eign countries to enhance the ability of such authorities
8 to enforce intellectual property rights.

9 (c) INTERAGENCY COLLABORATION.—The Commis-
10 sioner and the Director of U.S. Immigration and Customs
11 Enforcement shall lead interagency efforts to collaborate
12 with law enforcement and customs authorities of foreign
13 countries to enforce intellectual property rights.

14 **SEC. 257. SENSE OF CONGRESS REGARDING RECORDATION**
15 **PROCESS.**

16 It is the sense of Congress that the Commissioner
17 should work with the Under Secretary for Intellectual
18 Property and Director of the United States Patent and
19 Trademark Office of the Department of Commerce and
20 the Register of Copyrights of the Library of Congress to
21 consider a system under which—

22 (1) a trademark may be recorded with the U.S.
23 Customs and Border Protection Agency simulta-
24 neously with the issuance of trademark registration

1 by the United States Patent and Trademark Office;
2 and

3 (2) a copyright may be recorded with the U.S.
4 Customs and Border Protection Agency simulta-
5 neously with the registration of a copyright by the
6 Register of Copyrights.

7 **SEC. 258. REPORT ON INTELLECTUAL PROPERTY RIGHTS**
8 **ENFORCEMENT.**

9 Not later than June 30, 2014, and annually there-
10 after, the Commissioner and the Director of U.S. Immi-
11 gration and Customs Enforcement shall jointly submit to
12 the Committee on Finance of the Senate and the Com-
13 mittee on Ways and Means of the House of Representa-
14 tives a report that contains the following:

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

17 (A) The number of referrals from the U.S.
18 Customs and Border Protection Agency to the
19 U.S. Immigration and Customs Enforcement
20 Agency relating to infringements of intellectual
21 property rights during the preceding year.

22 (B) The number of investigations relating
23 to the infringement of intellectual property
24 rights referred by the U.S. Immigration and
25 Customs Enforcement Agency to a United

1 States Attorney's office for prosecution and the
2 United States Attorneys' offices to which those
3 investigations were referred.

4 (C) The number of such investigations ac-
5 cepted by each such United States Attorney's
6 office and the status or outcome of each such
7 investigation.

8 (D) The number of such investigations
9 that resulted in the imposition of civil or crimi-
10 nal penalties.

11 (E) A description of the efforts of the U.S.
12 Custom and Border Protection Agency and the
13 U.S. Immigration and Customs Enforcement
14 Agency to improve the success rates of inves-
15 tigation and prosecutions relating to the in-
16 fringement of intellectual property rights.

17 (2) An estimate of the average time required by
18 the Office of Trade of the U.S. Customs and Border
19 Protection Agency to respond to a request from port
20 personnel for advice with respect to whether mer-
21 chandise detained by the Agency infringed intellec-
22 tual property rights, distinguished by types of intel-
23 lectual property rights infringed.

24 (3) A summary of the outreach efforts of the
25 U.S. Customs and Border Protection Agency and

1 the U.S. Immigration and Customs Enforcement
2 Agency with respect to—

3 (A) the interdiction and investigation of,
4 and the sharing of information between those
5 Agencies and other Federal agencies to prevent
6 the infringement of intellectual property rights;

7 (B) collaboration with private sector enti-
8 ties—

9 (i) to identify trends in the infringe-
10 ment of, and technologies that infringe, in-
11 tellectual property rights;

12 (ii) to identify opportunities for en-
13 hanced training of officers of those Agen-
14 cies; and

15 (iii) to develop best practices to en-
16 force intellectual property rights; and

17 (C) coordination with foreign governments
18 and international organizations with respect to
19 the enforcement of intellectual property rights.

20 (4) A summary of the efforts of the U.S. Cus-
21 toms and Border Protection Agency and the U.S.
22 Immigration and Customs Enforcement Agency to
23 address the challenges with respect to the enforce-
24 ment of intellectual property rights presented by
25 Internet commerce and the transit of small packages

1 and an identification of the volume, value, and type
2 of merchandise seized for infringing intellectual
3 property rights as a result of such efforts.

4 (5) A summary of training relating to the en-
5 forcement of intellectual property rights conducted
6 under section 254 and expenditures for such train-
7 ing.

8 **CHAPTER 4—COORDINATION OF TRADE**
9 **ENFORCEMENT PRIORITIES**

10 **SEC. 261. ESTABLISHMENT OF PRIORITY TRADE ENFORCE-**
11 **MENT COORDINATION CENTERS.**

12 The Secretary of Homeland Security may establish
13 in the U.S. Immigration and Customs Enforcement Agen-
14 cy additional enforcement coordination centers—

15 (1) to address the issues relating to trade en-
16 forcement designated as priority trade issues in the
17 joint strategic plan on trade facilitation and trade
18 enforcement required by section 123A of the Cus-
19 toms and Trade Act of 1990, as added by section
20 131; and

21 (2) that are modeled on the structure of the
22 National Intellectual Property Rights Coordination
23 Center established under section 231.

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

4 **SEC. 301. SHORT TITLE.**

5 This title may be cited as the “Enforcing Orders and
6 Reducing Customs Evasion Act of 2013”.

7 **SEC. 302. PROCEDURES FOR INVESTIGATING CLAIMS OF**
8 **EVASION OF ANTIDUMPING AND COUNTER-**
9 **VAILING DUTY ORDERS.**

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

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

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

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

20 “(2) **COMMISSIONER.**—The term ‘Commis-
21 sioner’ means the Commissioner of U.S. Customs
22 and Border Protection, acting pursuant to the dele-
23 gation by the Secretary of the Treasury of the au-
24 thority of the Secretary with respect to customs rev-

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

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

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

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

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

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

16 “(5) EVASION.—

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

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

4 “(B) EXCEPTION FOR CLERICAL ERROR.—

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

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

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

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

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

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

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

20 “(b) INVESTIGATIONS.—

21 “(1) IN GENERAL.—Not later than 10 business
22 days after receiving an allegation described in para-
23 graph (2) or a referral described in paragraph (3),
24 the Commissioner shall initiate an investigation if
25 the Commissioner determines that the information

1 provided in the allegation or the referral, as the case
2 may be, reasonably suggests that covered merchan-
3 dise has been entered into the customs territory of
4 the United States through evasion.

5 “(2) ALLEGATION DESCRIBED.—An allegation
6 described in this paragraph is an allegation that a
7 person has entered covered merchandise into the
8 customs territory of the United States through eva-
9 sion that is—

10 “(A) filed with the Commissioner by a per-
11 son that is a producer in the United States of
12 merchandise—

13 “(i) that is like, or in the absence of
14 like, most similar in characteristics and
15 uses with, such covered merchandise; or

16 “(ii) into which merchandise described
17 in clause (i) is incorporated; and

18 “(B) accompanied by information reason-
19 ably available to the person that filed the alle-
20 gation.

21 “(3) REFERRAL DESCRIBED.—A referral de-
22 scribed in this paragraph is information submitted
23 to the Commissioner by any other Federal agency,
24 including the Department of Commerce or the
25 United States International Trade Commission, that

1 reasonably suggests that a person has entered cov-
2 ered merchandise into the customs territory of the
3 United States through evasion.

4 “(4) CONSOLIDATION OF ALLEGATIONS AND
5 REFERRALS.—

6 “(A) IN GENERAL.—The Commissioner
7 may consolidate multiple allegations described
8 in paragraph (2) and referrals described in
9 paragraph (3) into a single investigation if the
10 Commissioner determines it is appropriate to do
11 so.

12 “(B) EFFECT ON TIMING REQUIRE-
13 MENTS.—If the Commissioner consolidates mul-
14 tiple allegations or referrals into a single inves-
15 tigation under subparagraph (A), the date on
16 which the Commissioner receives the first such
17 allegation or referral shall be used for purposes
18 of the requirement under paragraph (1) with
19 respect to the timing of the initiation of the in-
20 vestigation.

21 “(5) INFORMATION-SHARING TO PROTECT
22 HEALTH AND SAFETY.—If, during the course of con-
23 ducting an investigation under paragraph (1) with
24 respect to covered merchandise, the Commissioner
25 has reason to suspect that such covered merchandise

1 may pose a health or safety risk to consumers, the
2 Commissioner shall provide, as appropriate, informa-
3 tion to the appropriate Federal agencies for pur-
4 poses of mitigating the risk.

5 “(c) DETERMINATIONS.—

6 “(1) IN GENERAL.—Not later than 270 cal-
7 endar days after the date on which the Commis-
8 sioner initiates an investigation under subsection (b)
9 with respect to covered merchandise, the Commis-
10 sioner shall make a determination, based on sub-
11 stantial evidence, with respect to whether such cov-
12 ered merchandise was entered into the customs terri-
13 tory of the United States through evasion.

14 “(2) AUTHORITY TO COLLECT AND VERIFY AD-
15 DITIONAL INFORMATION.—In making a determina-
16 tion under paragraph (1) with respect to covered
17 merchandise, the Commissioner may collect such ad-
18 ditional information as is necessary to make the de-
19 termination through such methods as the Commis-
20 sioner considers appropriate, including by—

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

23 “(i) a person that filed an allegation
24 under paragraph (2) of subsection (b) that
25 resulted in the initiation of an investiga-

1 tion under paragraph (1) of that sub-
2 section with respect to such covered mer-
3 chandise;

4 “(ii) a person alleged to have entered
5 such covered merchandise into the customs
6 territory of the United States through eva-
7 sion;

8 “(iii) a person that is a foreign pro-
9 ducer or exporter of such covered merchan-
10 dise; or

11 “(iv) the government of a country
12 from which such covered merchandise was
13 exported; and

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

16 “(3) ADVERSE INFERENCE.—If the Commis-
17 sioner finds that a person described in clause (i),
18 (ii), or (iii) of paragraph (2)(A) has failed to cooper-
19 ate by not acting to the best of the person’s ability
20 to comply with a request for information, the Com-
21 missioner may, in making a determination under
22 paragraph (1), use an inference that is adverse to
23 the interests of that person in selecting from among
24 the facts otherwise available to make the determina-
25 tion.

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

5 “(A) shall provide to each person that filed
6 an allegation under paragraph (2) of subsection
7 (b) that resulted in the initiation of an inves-
8 tigation under paragraph (1) of that subsection
9 with respect to such covered merchandise a no-
10 tification of the determination and may, in ad-
11 dition, include an explanation of the basis for
12 the determination; and

13 “(B) may provide to importers, in such
14 manner as the Commissioner determines appro-
15 priate, information discovered in the investiga-
16 tion that the Commissioner determines will help
17 educate importers with respect to importing
18 merchandise into the customs territory of the
19 United States in accordance with all applicable
20 laws and regulations.

21 “(d) EFFECT OF DETERMINATIONS.—

22 “(1) IN GENERAL.—If the Commissioner makes
23 a determination under subsection (c) that covered
24 merchandise was entered into the customs territory

1 of the United States through evasion, the Commis-
2 sioner shall—

3 “(A)(i) suspend the liquidation of unliqui-
4 dated entries of such covered merchandise that
5 are subject to the determination and that enter
6 on or after the date of the initiation of the in-
7 vestigation under subsection (b) with respect to
8 such covered merchandise and on or before the
9 date of the determination; or

10 “(ii) if the Commissioner has already sus-
11 pended the liquidation of such entries pursuant
12 to subsection (e)(1), continue to suspend the
13 liquidation of such entries;

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

16 “(i) extend the period for liquidating
17 unliquidated entries of such covered mer-
18 chandise that are subject to the determina-
19 tion and that entered before the date of
20 the initiation of the investigation; or

21 “(ii) if the Commissioner has already
22 extended the period for liquidating such
23 entries pursuant to subsection (e)(1), con-
24 tinue to extend the period for liquidating
25 such entries;

1 “(C) notify the administering authority of
2 the determination and request that the admin-
3 istering authority—

4 “(i) identify the applicable anti-
5 dumping or countervailing duty assessment
6 rates for entries described in subpara-
7 graphs (A) and (B); or

8 “(ii) if no such assessment rate for
9 such an entry is available at the time,
10 identify the applicable cash deposit rate to
11 be applied to the entry, with the applicable
12 antidumping or countervailing duty assess-
13 ment rate to be provided as soon as that
14 rate becomes available;

15 “(D) require the posting of cash deposits
16 and assess duties on entries described in sub-
17 paragraphs (A) and (B) in accordance with the
18 instructions received from the administering au-
19 thority under paragraph (2); and

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

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

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

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

16 “(iv) referring the record in whole or
17 in part to the U.S. Immigration and Cus-
18 toms Enforcement Agency for civil or
19 criminal investigation.

20 “(2) COOPERATION OF ADMINISTERING AU-
21 THORITY.—

22 “(A) IN GENERAL.—Upon receiving a noti-
23 fication from the Commissioner under para-
24 graph (1)(C), the administering authority shall
25 promptly provide to the Commissioner the ap-

1 plicable cash deposit rates and antidumping or
2 countervailing duty assessment rates and any
3 necessary liquidation instructions.

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

6 If the Commissioner and the administering au-
7 thority are unable to determine the producer or
8 exporter of the merchandise with respect to
9 which a notification is made under paragraph
10 (1)(C), the administering authority shall iden-
11 tify, as the applicable cash deposit rate or anti-
12 dumping or countervailing duty assessment
13 rate, the cash deposit or duty (as the case may
14 be) in the highest amount applicable to any
15 producer or exporter, including the ‘all-others’
16 rate of the merchandise subject to an anti-
17 dumping order or countervailing duty order
18 under section 736 or 706, respectively, or a
19 finding issued under the Antidumping Act,
20 1921, or any administrative review conducted
21 under section 751.

22 “(e) INTERIM MEASURES.—Not later than 90 cal-
23 endar days after initiating an investigation under sub-
24 section (b) with respect to covered merchandise, the Com-
25 missioner shall decide based on the investigation if there

1 is a reasonable suspicion that such covered merchandise
2 was entered into the customs territory of the United
3 States through evasion and, if the Commissioner decides
4 there is such a reasonable suspicion, the Commissioner
5 shall—

6 “(1) suspend the liquidation of each unliqui-
7 dated entry of such covered merchandise that en-
8 tered on or after the date of the initiation of the in-
9 vestigation;

10 “(2) pursuant to the Commissioner’s authority
11 under section 504(b), extend the period for liqui-
12 dating each unliquidated entry of such covered mer-
13 chandise that entered before the date of the initi-
14 ation of the investigation; and

15 “(3) pursuant to the Commissioner’s authority
16 under section 623, take such additional measures as
17 the Commissioner determines necessary to protect
18 the revenue of the United States, including requiring
19 a single transaction bond or additional security or
20 the posting of a cash deposit with respect to such
21 covered merchandise.

22 “(f) ADMINISTRATIVE REVIEW.—

23 “(1) IN GENERAL.—Not later than 30 business
24 days after the Commissioner makes a determination
25 under subsection (c) with respect to whether covered

1 merchandise was entered into the customs territory
2 of the United States through evasion, a person de-
3 termined to have entered such covered merchandise
4 through evasion or a person that filed an allegation
5 under paragraph (2) of subsection (b) that resulted
6 in the initiation of an investigation under paragraph
7 (1) of that subsection with respect to such covered
8 merchandise may file an appeal with the Commis-
9 sioner for de novo review of the determination.

10 “(2) TIMELINE FOR REVIEW.—Not later than
11 60 business days after an appeal of a determination
12 is filed under paragraph (1), the Commissioner shall
13 complete the review of the determination.

14 “(g) JUDICIAL REVIEW.—

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

1 chandise may commence a civil action in the United
2 States Court of International Trade by filing concur-
3 rently a summons and complaint contesting any fac-
4 tual findings or legal conclusions upon which the de-
5 termination is based.

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

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

19 (b) CONFORMING AMENDMENT.—Section 1581(c) of
20 title 28, United States Code, is amended by inserting “or
21 517” after “516A”.

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

1 (d) REGULATIONS.—Not later than the date that is
2 180 days after the date of the enactment of this Act, the
3 Secretary of the Treasury shall prescribe such regulations
4 as may be necessary to implement the amendments made
5 by this section.

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

12 **SEC. 303. ANNUAL REPORT ON PREVENTION AND INVES-**
13 **TIGATION OF EVASION OF ANTIDUMPING**
14 **AND COUNTERVAILING DUTY ORDERS.**

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

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

3 (1) for the calendar year preceding the submis-
4 sion of the report—

5 (A) a summary of the efforts of the U.S.
6 Customs and Border Protection Agency to pre-
7 vent and investigate the entry of covered mer-
8 chandise into the customs territory of the
9 United States through evasion;

10 (B) the number of allegations of evasion
11 received under subsection (b) of section 517 of
12 the Tariff Act of 1930, as added by section
13 302, and the number of such allegations result-
14 ing in investigations by the U.S. Customs and
15 Border Protection Agency or any other agency;

16 (C) a summary of investigations initiated
17 under subsection (b) of such section 517, in-
18 cluding—

19 (i) the number and nature of the in-
20 vestigations initiated, conducted, and com-
21 pleted; and

22 (ii) the resolution of each completed
23 investigation;

24 (D) the number of investigations initiated
25 under that subsection not completed during the

1 time provided for making determinations under
2 subsection (c) of such section 517 and an expla-
3 nation for why the investigations could not be
4 completed on time;

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

11 (F) with respect to each such investigation
12 that led to the imposition of a penalty, the
13 amount of the penalty;

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

19 (H) the amount of antidumping and coun-
20 tervailing duties collected as a result of any in-
21 vestigations or other actions by the U.S. Cus-
22 toms and Border Protection Agency or any
23 other agency;

24 (I) a description of the allocation of per-
25 sonnel and other resources of the U.S. Customs

1 and Border Protection Agency and the U.S. Im-
2 migration and Customs Enforcement Agency to
3 prevent and investigate evasion, including any
4 assessments conducted regarding the allocation
5 of such personnel and resources; and

6 (J) a description of training conducted to
7 increase expertise and effectiveness in the pre-
8 vention and investigation of evasion; and

9 (2) a description of processes and procedures of
10 the U.S. Customs and Border Protection Agency to
11 prevent and investigate evasion, including—

12 (A) the specific guidelines, policies, and
13 practices used by the Agency to ensure that al-
14 legations of evasion are promptly evaluated and
15 acted upon in a timely manner;

16 (B) an evaluation of the efficacy of those
17 guidelines, policies, and practices;

18 (C) an identification of any changes since
19 the last report required by this section, if any,
20 that have materially improved or reduced the
21 effectiveness of the Agency in preventing and
22 investigating evasion;

23 (D) a description of the development and
24 implementation of policies for the application of
25 single entry and continuous bonds for entries of

1 covered merchandise to sufficiently protect the
2 collection of antidumping and countervailing
3 duties commensurate with the level of risk of
4 not collecting those duties;

5 (E) a description of the processes and pro-
6 cedures for increased cooperation and informa-
7 tion sharing with the Department of Commerce,
8 the U.S. Immigration and Customs Enforce-
9 ment Agency, and any other relevant Federal
10 agencies to prevent and investigate evasion; and

11 (F) an identification of any recommended
12 policy changes for other Federal agencies or
13 legislative changes to improve the effectiveness
14 of the U.S. Customs and Border Protection
15 Agency in preventing and investigating evasion.

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

19 (1) a description of the type of merchandise
20 with respect to which investigations were initiated
21 under subsection (b) of section 517 of the Tariff Act
22 of 1930, as added by section 302;

23 (2) the amount of additional duties determined
24 to be owed as a result of such investigations and the
25 amount of such duties that were collected;

1 (3) an identification of the countries of origin
2 of covered merchandise determined under subsection
3 (c) of such section 517 to be entered into the cus-
4 toms territory of the United States through evasion;
5 and

6 (4) a description of the types of measures used
7 by the U.S. Customs and Border Protection Agency
8 to prevent and investigate evasion.

9 (d) DEFINITIONS.—In this section, the terms “cov-
10 ered merchandise” and “evasion” have the meanings given
11 those terms in section 517(a) of the Tariff Act of 1930,
12 as added by section 302.

13 **TITLE IV—MISCELLANEOUS** 14 **PROVISIONS**

15 **SEC. 401. CONSULTATION ON TRADE AND CUSTOMS REV-** 16 **ENUE FUNCTIONS.**

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

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

24 (2) in paragraph (2)(A), by striking “not later
25 than 30 days prior to the finalization of” and insert-

1 ing “not later than 60 days before proposing, and
2 not later than 60 days before finalizing,”.

3 **SEC. 402. DRAWBACK SIMPLIFICATION.**

4 (a) IN GENERAL.—Section 313 of the Tariff Act of
5 1930 (19 U.S.C. 1313) is amended to read as follows:

6 **“SEC. 313. DRAWBACK.**

7 “(a) DEFINITIONS.—In this section:

8 “(1) BILL OF MATERIALS; FORMULA.—The
9 terms ‘bill of materials’ and ‘formula’ mean records
10 kept in the ordinary course of business that identify
11 each component incorporated into merchandise or
12 that identify the quantity of each element, material,
13 chemical, mixture, or other substance incorporated
14 into merchandise.

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

18 “(3) DESTROYED MERCHANDISE.—The term
19 ‘destroyed merchandise’ means merchandise that has
20 undergone destruction.

21 “(4) DESTRUCTION.—The term ‘destruction’
22 means a process by which merchandise loses all com-
23 mercial value, other than the value of any material
24 that may be recovered when the merchandise is de-
25 stroyed.

1 “(5) DIRECT IDENTIFICATION.—The term ‘di-
2 rect identification’ means the identification of mer-
3 chandise that is exported or destroyed to claim
4 drawback with respect to imported merchandise as
5 the imported merchandise or merchandise into which
6 the imported merchandise is incorporated using—

7 “(A) the serial number or other unique
8 identifier of the exported merchandise or de-
9 stroyed merchandise and the imported merchan-
10 dise; or

11 “(B) such accounting methods as are pro-
12 vided for by regulation by the Commissioner.

13 “(6) DIRECTLY.—The term ‘directly’ means a
14 transfer of merchandise from one person to another
15 person without any intermediate transfer.

16 “(7) FUNGIBLE.—The term ‘fungible’ means,
17 with respect to merchandise, merchandise that is
18 interchangeable for commercial purposes with other
19 merchandise and has properties that are essentially
20 identical to the properties of the other merchandise.

21 “(8) GOOD SUBJECT TO CHILE FTA DRAW-
22 BACK.—The term ‘good subject to Chile FTA draw-
23 back’ has the meaning given that term in section
24 203(a) of the United States-Chile Free Trade Agree-
25 ment Implementation Act (19 U.S.C. 3805 note).

1 “(9) GOOD SUBJECT TO NAFTA DRAWBACK.—
2 The term ‘good subject to NAFTA drawback’ has
3 the meaning given that term in section 203(a) of the
4 North American Free Trade Agreement Implemen-
5 tation Act (19 U.S.C. 3333(a)).

6 “(10) HTS.—The term ‘HTS’ means the Har-
7 monized Tariff Schedule of the United States.

8 “(11) INCORPORATED.—The term ‘incor-
9 porated’ means any operation by which merchandise
10 becomes classifiable in a different 8-digit HTS sub-
11 heading number.

12 “(12) INDIRECTLY.—The term ‘indirectly’
13 means a transfer of merchandise from one person to
14 another person with one or more intermediate trans-
15 fers.

16 “(13) LINE ITEM.—

17 “(A) IMPORTED MERCHANDISE.—The term
18 ‘line item’, with respect to imported merchan-
19 dise, means the identification, in an entry filed
20 pursuant to section 484, of merchandise im-
21 ported from one country by net quantity, en-
22 tered value, 8-digit HTS subheading number,
23 and applicable duties, taxes, and fees.

24 “(B) EXPORTED MERCHANDISE.—The
25 term ‘line item’, with respect to exported mer-

1 chandise, means the identification of the mer-
2 chandise by 8-digit HTS subheading number or
3 Schedule B number, declared value, and quan-
4 tity.

5 “(14) NAFTA COUNTRY.—The term ‘NAFTA
6 country’ has the meaning given that term in section
7 2 of the North American Free Trade Agreement Im-
8 plementation Act (19 U.S.C. 3301).

9 “(15) SCHEDULE B.—The term ‘Schedule B’
10 means the Department of Commerce Schedule B,
11 Statistical Classification of Domestic and Foreign
12 Commodities Exported from the United States.

13 “(16) SUBSTITUTE MERCHANDISE.—The term
14 ‘substitute merchandise’ means merchandise that is
15 substituted for other merchandise for drawback pur-
16 poses pursuant to subsection (g).

17 “(17) VESSEL.—The term ‘vessel’ includes ves-
18 sels, parts of vessels, aircraft, and parts of aircraft.

19 “(b) ELIGIBILITY FOR DRAWBACK.—

20 “(1) IN GENERAL.—A person described in sub-
21 section (c) is eligible for drawback of duties, taxes,
22 and fees imposed under Federal law paid on im-
23 ported merchandise in an amount determined under
24 subsection (h) if—

1 “(A) the imported merchandise meets the
2 requirements of subsection (d);

3 “(B)(i) merchandise that meets the re-
4 quirements of subsection (e) is exported; or

5 “(ii) merchandise that meets the require-
6 ments of subsection (f) is destroyed; and

7 “(C) the person files a claim for drawback
8 with respect to the imported merchandise in ac-
9 cordance with subsection (i).

10 “(2) MULTIPLE DRAWBACK CLAIMS.—If a per-
11 son claims drawback under paragraph (1) with re-
12 spect to imported merchandise based on exported
13 merchandise or destroyed merchandise, the exported
14 merchandise or destroyed merchandise (as the case
15 may be) may not be the basis of any other claim for
16 drawback, except that appropriate credit and deduc-
17 tions for claims covering components or ingredients
18 of exported merchandise or destroyed merchandise
19 shall be made in determining the amount of draw-
20 back under subsection (h).

21 “(c) PERSONS ELIGIBLE TO CLAIM DRAWBACK.—

22 “(1) IN GENERAL.—A person may claim draw-
23 back under this section if the person—

24 “(A)(i) imports the merchandise on which
25 the claim is based; or

1 “(ii) obtains the authorization of the im-
2 porter to claim the drawback; and

3 “(B)(i) exports or destroys the merchan-
4 dise that was exported or destroyed to claim
5 drawback with respect to the imported mer-
6 chandise; or

7 “(ii) obtains the authorization of the ex-
8 porter or the person that destroyed the mer-
9 chandise (as the case may be) to claim draw-
10 back.

11 “(2) LIABILITY FOR CLAIMS.—

12 “(A) IN GENERAL.—Any person making a
13 claim for drawback with respect to imported
14 merchandise shall be liable for the full amount
15 of the drawback claimed against the imported
16 merchandise.

17 “(B) LIABILITY OF IMPORTERS.—An im-
18 porter shall be liable for any drawback claim
19 made by another person with respect to im-
20 ported merchandise in an amount equal to the
21 lesser of—

22 “(i) the amount of duties, taxes, and
23 fees that the person claimed with respect
24 to the imported merchandise; or

1 “(ii) the amount of duties, taxes, and
2 fees that the importer authorized the other
3 person to claim with respect to the im-
4 ported merchandise.

5 “(C) JOINT AND SEVERAL LIABILITY.—
6 Persons described in subparagraph (A) and (B)
7 shall be jointly and severally liable for the
8 amount described in subparagraph (B).

9 “(D) ORDER OF RECOVERY.—The Sec-
10 retary of the Treasury shall seek to recover the
11 amount of the drawback from a person de-
12 scribed in subparagraph (A) before seeking re-
13 covery from an importer described in subpara-
14 graph (B).

15 “(d) REQUIREMENTS FOR IMPORTED MERCHAN-
16 DISE.—Imported merchandise meets the requirements of
17 this subsection if—

18 “(1) all applicable duties, taxes, and fees have
19 been paid on the imported merchandise; and

20 “(2) the imported merchandise is entered or
21 withdrawn from warehouse for consumption.

22 “(e) REQUIREMENTS FOR EXPORTED MERCHAN-
23 DISE.—

1 “(1) IN GENERAL.—Exported merchandise
2 meets the requirements of this subsection if the ex-
3 ported merchandise is—

4 “(A) the imported merchandise;

5 “(B) merchandise that is substituted for
6 the imported merchandise pursuant to sub-
7 section (g);

8 “(C) merchandise into which the imported
9 merchandise or substitute merchandise is incor-
10 porated; or

11 “(D) merchandise that is substituted, pur-
12 suant to subsection (g), for merchandise into
13 which the imported merchandise or substitute
14 merchandise is incorporated.

15 “(2) SPECIAL RULES WITH RESPECT TO INCOR-
16 PORATION OF MERCHANDISE INTO OTHER MER-
17 CHANDISE.—For purposes of subparagraphs (C) and
18 (D) of paragraph (1), imported merchandise or sub-
19 stitute merchandise is incorporated into other mer-
20 chandise—

21 “(A) if the bill of materials or formula for
22 such other merchandise submitted with the
23 claim for drawback under subsection (i) in-
24 cludes the imported merchandise or substitute
25 merchandise; and

1 “(B) without regard to the number of
2 times the imported merchandise or substitute
3 merchandise is incorporated into such other
4 merchandise.

5 “(f) REQUIREMENTS FOR DESTROYED MERCHAN-
6 DISE.—

7 “(1) IN GENERAL.—Destroyed merchandise
8 meets the requirements of this subsection if—

9 “(A) the merchandise is—

10 “(i) the imported merchandise;

11 “(ii) merchandise that is substituted
12 for the imported merchandise pursuant to
13 subsection (g);

14 “(iii) merchandise into which the im-
15 ported merchandise or substitute merchan-
16 dise is incorporated; or

17 “(iv) merchandise that is substituted,
18 pursuant to subsection (g), for merchan-
19 dise into which the imported merchandise
20 or substitute merchandise is incorporated;
21 and

22 “(B) the merchandise—

23 “(i) is not exported because of its de-
24 struction; and

1 “(ii) was not used in the United
2 States before its destruction.

3 “(2) TREATMENT OF RETURNED MERCHAN-
4 DISE.—For purposes of paragraph (1)(B)(ii), mer-
5 chandise is not used in the United States solely be-
6 cause the merchandise is—

7 “(A) sold at retail by the importer or an-
8 other person that received the merchandise
9 from the importer under a certificate of deliv-
10 ery; and

11 “(B) subsequently returned to and accept-
12 ed by the importer or other person described in
13 subparagraph (A).

14 “(g) SUBSTITUTION.—

15 “(1) IN GENERAL.—Except as provided in this
16 subsection, merchandise may be substituted for
17 other merchandise if it can be demonstrated that the
18 merchandise was classifiable under the same 8-digit
19 HTS subheading number as such other merchandise
20 at some point during the 5-year period beginning on
21 the date on which the merchandise was imported.

22 “(2) CLASSIFICATION.—The Schedule B num-
23 ber for merchandise may be used for purposes of de-
24 termining under paragraph (1) if the merchandise is
25 or has been classified under the same 8-digit HTS

1 subheading number as other merchandise, without
2 regard to whether the Schedule B number encom-
3 passes more than one 8-digit HTS subheading num-
4 ber.

5 “(3) SPECIAL SUBSTITUTION RULES.—

6 “(A)(i) Merchandise that is classifiable
7 under any heading or subheading of the HTS
8 specified in clause (ii) may be substituted for
9 other merchandise if the merchandise is classifi-
10 able under the same 8-digit HTS subheading
11 number as the other merchandise under the
12 HTS as in effect on January 1, 2000.

13 “(ii) A heading or subheading of the HTS
14 specified in this clause is—

15 “(I) any of headings 2707 through
16 2715, 2901, or 2902;

17 “(II) any of headings 3901 through
18 3914 (as such headings apply to the pri-
19 mary forms provided under Note 6 to
20 chapter 39 of the HTS); or

21 “(III) subheading 2903.21.00,
22 2909.19.14, 2917.36, 2917.39.04,
23 2917.39.15, 2926.10.00, 3811.21.00, or
24 3811.90.00.

1 “(B) Merchandise that is classifiable under
2 subheading 2204.21.50, 2204.29.20, or
3 2204.29.60 of the HTS may be substituted for
4 other merchandise that is classifiable under any
5 such subheading.

6 “(C) Merchandise that is classifiable under
7 subheading 2204.21.80, 2204.29.40, or
8 2204.29.80 of the HTS may be substituted for
9 other merchandise that is classifiable under any
10 such subheading.

11 “(4) SPECIAL RULE FOR ETHYL ALCOHOL.—
12 Notwithstanding any other provision of law, in the
13 case of any duty paid under subheading 9901.00.50
14 of the HTS on imports of ethyl alcohol or a mixture
15 of ethyl alcohol, such duty may not be refunded if
16 the exported merchandise upon which a drawback
17 claim is based does not contain ethyl alcohol or a
18 mixture of ethyl alcohol.

19 “(h) AMOUNT OF DRAWBACK.—

20 “(1) CLAIMS BASED ON EXPORTATION OF IM-
21 PORTED OR SUBSTITUTE MERCHANDISE.—If a per-
22 son claims drawback with respect to imported mer-
23 chandise based on the exportation of the imported
24 merchandise or substitute merchandise, the amount

1 of drawback paid pursuant to this section shall be
2 equal to 99 percent of the product of—

3 “(A) the number of units of the imported
4 merchandise or substitute merchandise exported
5 to claim drawback with respect to the imported
6 merchandise, and

7 “(B) the lesser of—

8 “(i) the amount of duties, taxes, and
9 fees paid with respect to the line item for
10 the imported merchandise divided by the
11 total number of units of the imported mer-
12 chandise included in the line item, or

13 “(ii) the amount of duties, taxes, and
14 fees that would apply to the exported mer-
15 chandise if the exported merchandise were
16 imported divided by the number of units of
17 the exported merchandise.

18 “(2) CLAIMS BASED ON DESTRUCTION OF IM-
19 PORTED MERCHANDISE, MERCHANDISE INTO WHICH
20 IMPORTED MERCHANDISE IS INCORPORATED, OR
21 MERCHANDISE SUBSTITUTED FOR MERCHANDISE
22 INTO WHICH IMPORTED MERCHANDISE IS INCOR-
23 PORATED.—If a person claims drawback with re-
24 spect to imported merchandise based on the destruc-
25 tion of the imported merchandise, merchandise into

1 which the imported merchandise is incorporated, or
2 merchandise substituted for merchandise into which
3 the imported merchandise is incorporated, the
4 amount of drawback paid pursuant to this section
5 shall be equal to 99 percent of—

6 “(A) the product of—

7 “(i) the number of units of the im-
8 ported merchandise destroyed to claim
9 drawback with respect to the imported
10 merchandise or incorporated into merchan-
11 dise for which the destroyed merchandise
12 is substituted, and

13 “(ii) the amount of duties, taxes, and
14 fees paid with respect to the line item for
15 the imported merchandise divided by the
16 total number of units of the imported mer-
17 chandise included in the line item, minus

18 “(B) the value of any materials recovered
19 during the destruction of the destroyed mer-
20 chandise (including the value of any tax benefit
21 or royalty payment with respect to such mate-
22 rials).

23 “(3) CLAIMS BASED ON EXPORTATION OF MER-
24 CHANDISE INTO WHICH IMPORTED OR SUBSTITUTE
25 MERCHANDISE IS INCORPORATED OR MERCHANDISE

1 SUBSTITUTED FOR MERCHANDISE INTO WHICH IM-
2 PORTED OR SUBSTITUTE MERCHANDISE IS INCOR-
3 PORATED.—If a person claims drawback with re-
4 spect to imported merchandise based on the expor-
5 tation of merchandise into which the imported mer-
6 chandise or substitute merchandise is incorporated,
7 or merchandise substituted for merchandise into
8 which the imported merchandise or substitute mer-
9 chandise is incorporated, the amount of drawback
10 paid pursuant to this section shall be equal to 99
11 percent of the product of—

12 “(A) the number of units of the imported
13 merchandise or substitute merchandise incor-
14 porated into the exported merchandise or the
15 merchandise for which the exported merchan-
16 dise is substituted, and

17 “(B)(i) in the case of exported merchan-
18 dise into which the imported merchandise is in-
19 corporated or exported merchandise substituted
20 for merchandise into which the imported mer-
21 chandise is incorporated, the amount of duties,
22 taxes, and fees paid with respect to the line
23 item for the imported merchandise divided by
24 the number of units of the imported merchan-
25 dise included in the line item, or

1 “(ii) in the case of exported merchandise
2 into which substitute merchandise is incor-
3 porated or exported merchandise substituted for
4 merchandise into which substitute merchandise
5 is incorporated, the lesser of—

6 “(I) the amount of duties, taxes, and
7 fees paid with respect to the line item for
8 the imported merchandise divided by the
9 total number of units of the imported mer-
10 chandise included in the line item, or

11 “(II) the amount of duties, taxes, and
12 fees that would apply to the substitute
13 merchandise, if the substitute merchandise
14 were imported, divided by the number of
15 units of the substitute merchandise incor-
16 porated into the exported merchandise or
17 the merchandise for which the exported
18 merchandise is substituted.

19 “(4) CLAIMS BASED ON DESTRUCTION OF SUB-
20 STITUTION MERCHANDISE, MERCHANDISE INTO WHICH
21 SUBSTITUTE MERCHANDISE IS INCORPORATED, OR
22 MERCHANDISE SUBSTITUTED FOR MERCHANDISE
23 INTO WHICH SUBSTITUTE MERCHANDISE IS INCOR-
24 PORATED.—If a person claims drawback with re-
25 spect to imported merchandise based on the destruc-

1 tion of substitute merchandise, merchandise into
2 which substitute merchandise is incorporated, or
3 merchandise substituted for merchandise into which
4 substitute merchandise is incorporated, the amount
5 of drawback paid pursuant to this section shall be
6 equal to 99 percent of the lesser of—

7 “(A) the amount of—

8 “(i) duties, taxes, and fees that would
9 apply to the substitute merchandise de-
10 stroyed, incorporated into destroyed mer-
11 chandise, or incorporated into merchandise
12 for which the destroyed merchandise is
13 substituted, if the substitute merchandise
14 were imported, minus

15 “(ii) the value of any materials recov-
16 ered during the destruction of the de-
17 stroyed merchandise (including the value
18 of any tax benefit or royalty payment with
19 respect to such materials), or

20 “(B) the amount of drawback the person
21 could have claimed under paragraph (2) if the
22 person had destroyed the imported merchan-
23 dise.

24 “(5) LIMITATION FOR DUTIES, TAXES, AND
25 FEES PREVIOUSLY REFUNDED.—The amount of du-

1 ties, taxes, and fees that may be refunded as draw-
2 back with respect to imported merchandise pursuant
3 to this subsection shall be reduced by the amount of
4 any duties, taxes, and fees previously refunded to a
5 person with respect to such merchandise.

6 “(i) FILING REQUIREMENTS.—The requirements for
7 filing a claim for drawback under this subsection are the
8 following:

9 “(1) ELECTRONIC FILING.—The claim shall be
10 filed electronically.

11 “(2) TIME LIMIT FOR CLAIM.—The claim shall
12 be filed not later than 5 years after the date—

13 “(A) on which the merchandise with re-
14 spect to which drawback is claimed is imported;
15 or

16 “(B) if the claim is based on merchandise
17 imported on more than one date, the earliest
18 date on which any such merchandise was im-
19 ported.

20 “(3) IDENTIFICATION OF MERCHANDISE.—The
21 claim shall include an identification of the merchan-
22 dise with respect to which the claim is filed as fol-
23 lows:

24 “(A) If drawback is claimed with respect
25 to imported merchandise based on the expor-

1 tation of merchandise, a demonstration that the
2 exported merchandise meets the requirements
3 of subsection (e) using—

4 “(i)(I) the information contained in
5 the line item for the imported merchandise
6 and information contained in the line item
7 for the exported merchandise; and

8 “(II) in the case of imported mer-
9 chandise or substitute merchandise incor-
10 porated into the exported merchandise or
11 merchandise that is substituted for mer-
12 chandise into which imported merchandise
13 or substitute merchandise is incorporated,
14 a bill of materials or formula identifying
15 the imported merchandise or substitute
16 merchandise and the exported merchandise
17 by the 8-digit HTS subheading number
18 and the quantity of the imported merchan-
19 dise or substitute merchandise and the ex-
20 ported merchandise; or

21 “(ii) direct identification.

22 “(B) If drawback is claimed with respect
23 to imported merchandise based on the destruc-
24 tion of merchandise, an identification of the im-

1 ported merchandise and the destroyed merchan-
2 dise using—

3 “(i)(I) the information contained in
4 the line item for the imported merchandise
5 and information identifying the destroyed
6 merchandise by 8-digit HTS subheading
7 number and quantity; and

8 “(II) in the case of imported mer-
9 chandise or substitute merchandise incor-
10 porated into the destroyed merchandise or
11 merchandise that is substituted for mer-
12 chandise into which imported merchandise
13 or substitute merchandise is incorporated,
14 a bill of materials or formula identifying
15 the imported merchandise or substitute
16 merchandise and the destroyed merchan-
17 dise by the 8-digit HTS subheading num-
18 ber and the quantity of the imported mer-
19 chandise or substitute merchandise and the
20 destroyed merchandise; or

21 “(ii) using direct identification.

22 “(4) PROOF OF EXPORTATION.—If drawback is
23 claimed with respect to imported merchandise based
24 on the exportation of merchandise, the claim shall
25 include, as proof of exportation, one of the following:

1 “(A) The record of exportation entered in
2 the automated export system of the United
3 States Government or, if the exporter is unable
4 to use that system, information similar to the
5 information contained in such a record that is
6 kept by the exporter in the ordinary course of
7 business.

8 “(B) In the case of a deemed export, any
9 record that establishes the deemed export, or a
10 copy of such a record, that is kept by the ex-
11 porter in the ordinary course of business.

12 “(5) PROOF OF AUTHORIZATION.—The claim
13 shall include, as proof of the authorization under
14 subsection (c)(1) of the importer, exporter, or person
15 who destroyed merchandise, as appropriate, for an-
16 other person to claim drawback, records kept in the
17 ordinary course of business demonstrating the au-
18 thorization.

19 “(j) SPECIAL RULES.—

20 “(1) VESSELS BUILT FOR RESIDENTS OF A
21 FOREIGN COUNTRY.—Drawback under this section
22 may be claimed for materials imported and used in
23 the construction and equipment of vessels built for
24 foreign account and ownership, or for the govern-
25 ment of any foreign country, notwithstanding that

1 such vessels may not within the strict meaning of
2 the term be exported.

3 “(2) AGRICULTURAL PRODUCTS.—No drawback
4 may be claimed under this section for an agricul-
5 tural product with respect to which an over-quota
6 rate of duty has been paid, unless the product is
7 identified as the imported agricultural product using
8 direct identification.

9 “(3) CERTAIN EXPORTED MERCHANDISE.—

10 “(A) IN GENERAL.—Except as provided in
11 subparagraph (B), upon the exportation of fla-
12 voring extracts, flavors, medicines, medicinal
13 preparations, or perfumes manufactured or pro-
14 duced in the United States in part from domes-
15 tic alcohol on which an internal revenue tax has
16 been paid, there shall be allowed a drawback in
17 an amount equal to the tax found to have been
18 paid on the alcohol so used.

19 “(B) LIMITATION.—If drawback has been
20 claimed under section 5114 of the Internal Rev-
21 enue Code of 1986 with respect to flavoring ex-
22 tracts, flavors, medicines, medicinal prepara-
23 tions, or perfumes manufactured or produced in
24 the United States, the amount of drawback

1 under this paragraph shall be limited to \$1 per
2 proof gallon.

3 “(C) FORM OF CLAIM.—A claim for draw-
4 back under this paragraph shall be submitted in
5 such form, at such times, and under such con-
6 ditions as the Secretary of the Treasury shall
7 prescribe by regulation.

8 “(4) PAYMENT FROM RECEIPTS OF PUERTO
9 RICO.—A drawback under this section for merchan-
10 dise shall be paid from the customs receipts of Puer-
11 to Rico if the duties for such merchandise were
12 originally paid into the Treasury of Puerto Rico.

13 “(k) DRAWBACK ON EXPORTED GOODS UNDER CER-
14 TAIN FREE TRADE AGREEMENTS.—

15 “(1) SPECIAL RULES FOR NAFTA COUNTRIES.—

16 “(A) IN GENERAL.—Subject to section
17 508(b)(2)(B) of the Tariff Act of 1930 (19
18 U.S.C. 1508(b)(2)(B)), and for purposes of this
19 section, if merchandise that is exported to a
20 NAFTA country is a good subject to NAFTA
21 drawback, no customs duties on the good may
22 be refunded, waived, or reduced in an amount
23 that exceeds the lesser of—

1 “(i) the total amount of customs du-
2 ties paid or owed on the good on importa-
3 tion into the United States; or

4 “(ii) the total amount of customs du-
5 ties paid on the good on importation into
6 the NAFTA country.

7 “(B) SPECIAL RULE FOR CANADA.—If
8 Canada ceases to be a NAFTA country and the
9 suspension of the operation of the United
10 States-Canada Free-Trade Agreement there-
11 after terminates, then for purposes of this sec-
12 tion, the shipment to Canada during the period
13 such Agreement is in operation of merchandise
14 made from or substituted for a good eligible for
15 drawback under section 204(a) of the United
16 States-Canada Free-Trade Agreement Imple-
17 mentation Act of 1988 (Public Law 100-449;
18 19 U.S.C. 2112 note) does not constitute an ex-
19 portation.

20 “(C) FUNGIBLE MERCHANDISE EXPORTED
21 TO NAFTA COUNTRIES.—The exportation to a
22 NAFTA country of merchandise that is fungible
23 with and substituted for imported merchandise,
24 other than merchandise described in paragraphs
25 (1) through (8) of section 203(a) of the North

1 American Free Trade Agreement Implementa-
2 tion Act (19 U.S.C. 3333(a)), shall not be
3 treated as an exportation of substitute mer-
4 chandise for purposes of drawback under this
5 section.

6 “(D) PROOF OF EXPORTATION TO CANADA
7 OR MEXICO.—Notwithstanding subsection
8 (i)(4), a person filing a claim under this para-
9 graph shall submit, as proof of exportation, the
10 entry records from Canada or Mexico.

11 “(2) SPECIAL RULES FOR CHILE.—

12 “(A) IN GENERAL.—For purposes of this
13 section, if merchandise that is exported to Chile
14 is a good subject to Chile FTA drawback, no
15 customs duties on the good may be refunded,
16 waived, or reduced, except as provided in sub-
17 paragraph (B).

18 “(B) AMOUNT OF CUSTOMS DUTIES.—The
19 customs duties referred to in subparagraph (A)
20 may be refunded, waived, or reduced by—

21 “(i) 100 percent during the 8-year pe-
22 riod beginning on January 1, 2004;

23 “(ii) 75 percent during the 1-year pe-
24 riod beginning on January 1, 2012;

1 “(iii) 50 percent during the 1-year pe-
2 riod beginning on January 1, 2013; and

3 “(iv) 25 percent during the 1-year pe-
4 riod beginning on January 1, 2014.

5 “(C) FUNGIBLE MERCHANDISE EXPORTED
6 TO CHILE.—Beginning on January 1, 2015, the
7 exportation to Chile of merchandise that is fun-
8 gible with and substituted for imported mer-
9 chandise, other than merchandise described in
10 paragraphs (1) through (5) of section 203(a) of
11 the United States-Chile Free Trade Agreement
12 Implementation Act (19 U.S.C. 3805 note),
13 shall not be treated as an exportation of sub-
14 stitute merchandise for purposes of drawback
15 under this section. The preceding sentence shall
16 not be construed to permit the substitution of
17 merchandise under this section with respect to
18 merchandise described in paragraph (2) of sec-
19 tion 203(a) of the United States-Chile Free
20 Trade Agreement Implementation Act.”.

21 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

22 (1) REFUNDS.—Section 505(b) of the Tariff
23 Act of 1930 (19 U.S.C. 1505(b)) is amended by
24 adding at the end the following: “Refunds of excess
25 moneys deposited, as determined on a liquidation or

1 reliquidation, shall be reduced by any amount paid,
2 on an accelerated basis or otherwise, to a person
3 claiming drawback pursuant to section 313.”

4 (2) REVIEW OF PROTESTS.—The second sen-
5 tence of section 515(a) of the Tariff Act of 1930 (19
6 U.S.C. 1515(a)) is amended by striking the period
7 at the end and inserting “in accordance with section
8 505.”.

9 (3) REFUNDS, WAIVERS, AND REDUCTIONS OF
10 DUTY UNDER NAFTA.—Section 508(b)(2)(B)(i)(III)
11 of the Tariff Act of 1930 (19 U.S.C.
12 1508(b)(2)(B)(i)(III)) is amended by striking “sec-
13 tion 313(n)(2) or (o)(1)” and inserting “section
14 313(k)(1)”.

15 (c) EFFECTIVE DATE.—

16 (1) IN GENERAL.—Except as provided in para-
17 graph (2), the amendments made by this section
18 shall apply to drawback claims filed with respect to
19 merchandise that enters the United States on or
20 after the date that is 2 years after the date of the
21 enactment of this Act.

22 (2) TRANSITION RULE.—During the 1-year pe-
23 riod beginning on the date specified in paragraph
24 (1), a person may elect to file a claim for drawback
25 under—

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

3 (B) section 313 of the Tariff Act of 1930,
4 as in effect on the day before the date specified
5 in paragraph (1).

6 (d) GOVERNMENT ACCOUNTABILITY OFFICE RE-
7 PORT.—Not later than the date that is 4 years after the
8 date of the enactment of this Act, the Comptroller General
9 of the United States shall submit to the Committee on
10 Finance of the Senate and the Committee on Ways and
11 Means of the House of Representatives a report that con-
12 tains—

13 (1) an evaluation of the costs and benefits to
14 the Federal Government, and the benefits to the pri-
15 vate sector, resulting from the implementation of
16 section 313 of the Tariff Act of 1930, as amended
17 by this section; and

18 (2) an assessment of the extent to which the
19 implementation of that section may permit a person
20 claiming drawback with respect to imported mer-
21 chandise to receive drawback in excess of the duties,
22 taxes, or fees paid on the imported merchandise.

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

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

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

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

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

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

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

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

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

18 **SEC. 404. AMENDMENTS TO CHAPTER 98 OF THE HAR-**
19 **MONIZED TARIFF SCHEDULE OF THE UNITED**
20 **STATES.**

21 (a) ARTICLES EXPORTED AND RETURNED, AD-
22 VANCED OR IMPROVED ABROAD.—Subchapter II of chap-
23 ter 98 of the Harmonized Tariff Schedule of the United
24 States is amended by adding at the end of U.S. Note 3
25 the following:

1 “(f)(i) For purposes of subheadings 9802.00.40
2 and 9802.00.50, fungible articles exported from the
3 United States for the purposes described in such
4 subheadings—

5 “(A) may be commingled; and

6 “(B) the origin, value, and classification of
7 such articles may be accounted for using an in-
8 ventory management method.

9 “(ii) If a person chooses to use an inventory
10 management method under this subdivision with re-
11 spect to fungible articles, the person shall use the
12 same inventory management method for those arti-
13 cles with respect to which the person claims
14 fungibility.

15 “(iii) For purposes of this subdivision—

16 “(A) the term ‘fungible articles’ means ar-
17 ticles that are interchangeable for commercial
18 purposes and have essentially identical prop-
19 erties; and

20 “(B) the term ‘inventory management
21 method’ means any method for managing inven-
22 tory that is based on generally accepted ac-
23 counting principles.”.

24 (b) MODIFICATION OF PROVISIONS RELATING TO
25 RETURNED PROPERTY.—The article description for sub-

1 law (other than subparagraph (B) and paragraph (2))”;
2 and

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

4 “(B)(i) An appropriate officer of the U.S. Customs
5 and Border Protection Agency may assign a sufficient
6 number of employees from the Agency (if available) to per-
7 form services described in clause (ii) for a charter air car-
8 rier (as defined in section 40102 of title 49, United States
9 Code) for a charter flight arriving after normal operating
10 hours at an airport that is an established port of entry
11 serviced by the Agency, notwithstanding that overtime
12 funds for those services are not available, if the charter
13 air carrier—

14 “(I) not later than 4 hours before the flight ar-
15 rives, specifically requests that such services be pro-
16 vided; and

17 “(II) pays any overtime fees incurred in connec-
18 tion with such services.

19 “(ii) Services described in this clause are customs
20 services for passengers and their baggage or any other
21 such service that could lawfully be performed during reg-
22 ular hours of operation.”.

1 **SEC. 406. PILOT PROGRAM TO DESIGNATE ADDITIONAL 24-**
2 **HOUR COMMERCIAL PORTS OF ENTRY.**

3 (a) ESTABLISHMENT OF PILOT PROGRAM.—The
4 President shall establish a pilot program under which the
5 President shall—

6 (1) pursuant to the Act of August 1, 1914 (38
7 Stat. 623, chapter 223; 19 U.S.C. 2), designate cer-
8 tain land border crossings as 24-hour commercial
9 ports of entry in accordance with subsections (b)
10 and (c); and

11 (2) ensure that each land border crossing des-
12 igned as a commercial port of entry under the
13 pilot program has sufficient resources—

14 (A) to carry out the functions of a com-
15 mercial port of entry, including accepting en-
16 tries of merchandise, collecting duties, and en-
17 forcing the customs and trade laws of the
18 United States; and

19 (B) to perform those functions 24 hours a
20 day.

21 (b) DESIGNATION.—Not later than 180 days after
22 the date of the enactment of this Act, the President shall,
23 after considering the criteria set forth in subsection (c)
24 and any input provided by the public, designate not fewer
25 than 2 and not more than 6 land border crossings, equally
26 divided between land border crossings on the northern and

1 southern borders of the United States, as 24-hour com-
2 mercial ports of entry under the pilot program established
3 under subsection (a).

4 (c) CRITERIA.—In designating a land border crossing
5 as a 24-hour commercial port of entry under the pilot pro-
6 gram established under subsection (a), the President shall
7 consider the following:

8 (1) The number of 24-hour commercial ports of
9 entry already located in the State in which the land
10 border crossing is located.

11 (2) The costs associated with operating the land
12 border crossing as a 24-hour commercial port of
13 entry, including whether the Federal Government
14 would be required to acquire or lease additional
15 land.

16 (3) The positive economic impact of designating
17 the land border crossing as a 24-hour commercial
18 port of entry on the community in which the land
19 border crossing is located.

20 (4) Any commitment of resources by the gov-
21 ernment of Canada or Mexico, as applicable, to a
22 similar designation of a corresponding foreign port
23 of entry.

24 (5) The support demonstrated by the govern-
25 ment of the State or locality in which the land bor-

1 der crossing is located, including through infrastruc-
2 ture improvements, to facilitate the operation of the
3 land border crossing as a 24-hour commercial port
4 of entry.

5 (d) TERMINATION.—

6 (1) DETERMINATION OF ECONOMIC BENEFIT.—

7 Not later than the date that is 2 years after the date
8 on which a land border crossing designated as a 24-
9 hour commercial port of entry under the pilot pro-
10 gram established under subsection (a) becomes fully
11 operational as a 24-hour commercial port of entry,
12 the President shall—

13 (A) determine whether the operation of the
14 land border crossing as a port of entry 24
15 hours a day provides a net economic benefit to
16 the United States; and

17 (B) submit to the Committee on Finance
18 of the Senate and Committee on Ways and
19 Means of the House of Representatives a report
20 on that determination and the reasons for that
21 determination.

22 (2) TERMINATION.—If the President deter-
23 mines under paragraph (1) that operating a land
24 border crossing as a port of entry 24 hours a day
25 does not provide a net economic benefit to the

1 United States, the land border crossing shall cease
2 to operate as a port of entry 24 hours a day on the
3 date on which the President submits the report
4 under paragraph (1)(B).

5 (e) REPORT.—Not later than 90 days before the
6 President makes a determination under subsection (d)(1)
7 with respect to a land border crossing designated as a 24-
8 hour commercial port of entry under the pilot program
9 established under subsection (a), the President shall sub-
10 mit to the Committee on Finance of the Senate and Com-
11 mittee on Ways and Means of the House of Representa-
12 tives a report that provides—

13 (1) a comparison of the vehicle traffic, the esti-
14 mated total volume of commercial merchandise en-
15 tered, and the wait times at the land border cross-
16 ing—

17 (A) during the 2-year period preceding the
18 designation of the land border crossing as a 24-
19 hour commercial port of entry; and

20 (B) after the land border crossing becomes
21 fully operational as a 24-hour commercial port
22 of entry;

23 (2) a comparison of the total value of commer-
24 cial merchandise transported through the land bor-
25 der crossing—

1 (A) during the 2-year period preceding the
 2 designation of the land border crossing as a 24-
 3 hour commercial port of entry; and

4 (B) after the land border crossing becomes
 5 fully operational as a 24-hour commercial port
 6 of entry; and

7 (3) a comparison of wait times at other ports
 8 of entry in the State in which the land border cross-
 9 ing is located—

10 (A) during the 2-year period preceding the
 11 designation of the land border crossing as a 24-
 12 hour commercial port of entry; and

13 (B) after the land border crossing becomes
 14 fully operational as a 24-hour commercial port
 15 of entry.

16 **SEC. 407. ELIMINATION OF CONSUMPTIVE DEMAND EXCEP-**
 17 **TION TO PROHIBITION ON IMPORTATION OF**
 18 **GOODS MADE WITH CONVICT LABOR,**
 19 **FORCED LABOR, OR INDENTURED LABOR; RE-**
 20 **PORT.**

21 (a) **ELIMINATION OF CONSUMPTIVE DEMAND EX-**
 22 **CEPTION.—**

23 (1) **IN GENERAL.—**Section 307 of the Tariff
 24 Act of 1930 (19 U.S.C. 1307) is amended by strik-

1 ing “The provisions of this section” and all that fol-
2 lows through “of the United States.”.

3 (2) EFFECTIVE DATE.—The amendment made
4 by paragraph (1) shall take effect on the date that
5 is 15 days after the date of the enactment of this
6 Act.

7 (b) REPORT REQUIRED.—Not later than 180 days
8 after the date of the enactment of this Act, and annually
9 thereafter, the Commissioner shall submit to the Com-
10 mittee on Finance of the Senate and the Committee on
11 Ways and Means of the House of Representatives a report
12 on compliance with section 307 of the Tariff Act of 1930
13 (19 U.S.C. 1307) that includes the following:

14 (1) The number of instances in which merchan-
15 dise was denied entry pursuant to that section dur-
16 ing the 1-year period preceding the submission of
17 the report.

18 (2) A description of the merchandise denied
19 entry pursuant to that section.

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

23 **SEC. 408. HONEY TRANSSHIPMENT.**

24 (a) IN GENERAL.—The Commissioner of U.S. Cus-
25 toms and Border Protection shall direct appropriate per-

1 sonnel and resources of the U.S. Customs and Border Pro-
2 tection Agency to address concerns that honey is being
3 imported into the United States in violation of the customs
4 and trade laws of the United States.

5 (b) COUNTRY OF ORIGIN.—

6 (1) IN GENERAL.—The Commissioner of U.S.
7 Customs and Border Protection shall compile a
8 database of the individual characteristics of honey
9 produced in foreign countries to facilitate the
10 verification of country of origin markings of im-
11 ported honey.

12 (2) ENGAGEMENT WITH FOREIGN GOVERN-
13 MENTS.—The Commissioner shall seek to engage the
14 customs agencies of foreign governments for assist-
15 ance in compiling the database described in para-
16 graph (1).

17 (3) CONSULTATION WITH INDUSTRY.—In com-
18 piling the database described in paragraph (1), the
19 Commissioner shall consult with entities in the
20 honey industry regarding the development of indus-
21 try standards for honey identification.

22 (4) CONSULTATION WITH FOOD AND DRUG AD-
23 MINISTRATION.—In compiling the database de-
24 scribed in paragraph (1), the Commissioner shall
25 consult with the Commissioner of Food and Drugs.

1 (c) REPORT REQUIRED.—Not later than 180 days
2 after the date of the enactment of this Act, the Commis-
3 sioner of U.S. Customs and Border Protection shall sub-
4 mit to Congress a report that—

5 (1) describes and assesses the limitations in the
6 existing analysis capabilities of laboratories with re-
7 spect to determining the country of origin of honey
8 samples or the percentage of honey contained in a
9 sample; and

10 (2) includes any recommendations of the Com-
11 missioner for improving such capabilities.

12 (d) SENSE OF CONGRESS.—It is the sense of Con-
13 gress that the Commissioner of Food and Drugs should
14 promptly establish a national standard of identity for
15 honey for the Commissioner of U.S. Customs and Border
16 Protection to use to ensure that imports of honey are—

17 (1) classified accurately for purposes of assess-
18 ing duties; and

19 (2) denied entry into the United States if such
20 imports pose a threat to the health or safety of con-
21 sumers in the United States.

22 **SEC. 409. CONTRABAND ARCHAEOLOGICAL OR ETHNO-**
23 **LOGICAL MATERIALS.**

24 (a) IN GENERAL.—The Commissioner shall ensure
25 that appropriate personnel of the U.S. Customs and Bor-

1 der Protection Agency are trained in the detection, identi-
 2 fication, and detention of archaeological or ethnological
 3 materials the importation of which violates the customs
 4 and trade laws of the United States.

5 (b) TRAINING.—The Commissioner is authorized to
 6 accept training and other support services from experts
 7 outside of the Federal Government in the detection, identi-
 8 fication, and detention of archaeological or ethnological
 9 materials described in subsection (a).

10 **SEC. 410. DE MINIMIS VALUE AND ENTRY UNDER REGULA-**
 11 **TIONS.**

12 (a) INCREASE IN MAXIMUM VALUE OF ARTICLES
 13 THAT MAY BE IMPORTED DUTY-FREE BY ONE PERSON
 14 ON ONE DAY.—

15 (1) IN GENERAL.—Section 321(a)(2)(C) of the
 16 Tariff Act of 1930 (19 U.S.C. 1321(a)(2)(C)) is
 17 amended by striking “\$200” and inserting “\$800”.

18 (2) EFFECTIVE DATE.—The amendment made
 19 by paragraph (1) shall apply with respect to articles
 20 entered, or withdrawn from warehouse for consump-
 21 tion, on or after the 15th day after the date of the
 22 enactment of this Act.

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

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

3 “(1) Merchandise, when different commercial
4 facilitation and risk considerations that may vary for
5 different classes or kinds of merchandise or different
6 classes of transactions may dictate;”;

7 (2) by redesignating subsection (b) as sub-
8 section (c); and

9 (3) by inserting after subsection (a) the fol-
10 lowing:

11 “(b) ENTRY OF MERCHANDISE VALUED AT \$2,500
12 OR LESS.—

13 “(1) IN GENERAL.—Except as provided in para-
14 graph (2), the Secretary of the Treasury shall pre-
15 scribe rules and regulations for the declaration and
16 entry of merchandise if the aggregate value of the
17 shipment of merchandise does not exceed \$2,500.

18 “(2) EXCEPTION.—The rules and regulations
19 prescribed under paragraph (1) shall not apply to
20 merchandise that—

21 “(A) has a value in excess of \$250; and

22 “(B) is classified under section VII, VIII,
23 XI, or XII, chapter 94, or subchapter III or IV
24 of chapter 99 of the Harmonized Tariff Sched-
25 ule of the United States.”.

1 **SEC. 411. REPEAL OF AUTHORITY OF U.S. CUSTOMS AND**
2 **BORDER PROTECTION AGENCY TO ENTER**
3 **INTO CERTAIN REIMBURSABLE FEE AGREE-**
4 **MENTS.**

5 Section 560 of the Department of Homeland Security
6 Appropriations Act, 2013 (division D of the Consolidated
7 and Further Continuing Appropriations Act, 2013) is re-
8 pealed.

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