

112TH CONGRESS
1ST SESSION

S. 1133

To prevent the evasion of antidumping and countervailing duty orders, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 26, 2011

Mr. WYDEN (for himself, Ms. SNOWE, Mrs. McCASKILL, Mr. BLUNT, Mr. BROWN of Ohio, Mr. PORTMAN, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To prevent the evasion of antidumping and countervailing
duty orders, 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 “Enforcing Orders and Reducing Customs Evasion Act of
6 2011”.

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

Sec. 1. Short title; table of contents.

- Sec. 101. Procedures for investigating claims of evasion of antidumping and countervailing duty orders.
 Sec. 102. Application to Canada and Mexico.

TITLE II—OTHER MATTERS

- Sec. 201. Definitions.
 Sec. 202. Allocation of U.S. Customs and Border Protection personnel.
 Sec. 203. Regulations.
 Sec. 204. Annual report on prevention of evasion of antidumping and countervailing duty orders.
 Sec. 205. Government Accountability Office report on reliquidation authority.

1 **TITLE I—PROCEDURES**

2 **SEC. 101. PROCEDURES FOR INVESTIGATING CLAIMS OF**
 3 **EVASION OF ANTIDUMPING AND COUNTER-**
 4 **VAILING DUTY ORDERS.**

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

8 **“SEC. 516B. PROCEDURES FOR INVESTIGATING CLAIMS OF**
 9 **EVASION OF ANTIDUMPING AND COUNTER-**
 10 **VAILING DUTY ORDERS.**

11 “(a) DEFINITIONS.—In this section:

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

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

18 “(A) the Committee on Finance and the
 19 Committee on Appropriations of the Senate;
 20 and

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

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

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

10 “(A) an antidumping duty order issued
11 under section 736;

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

14 “(C) a countervailing duty order issued
15 under section 706.

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

20 “(6) EVADE; EVASION.—The terms ‘evade’ and
21 ‘evasion’ refer to entering covered merchandise into
22 the customs territory of the United States by means
23 of any document or electronically transmitted data
24 or information, written or oral statement, or act that
25 is material and false, or any omission that is mate-

1 rial, and that results in any cash deposit or other se-
 2 curity or any amount of applicable antidumping or
 3 countervailing duties being reduced or not being ap-
 4 plied with respect to the merchandise.

5 “(7) INTERESTED PARTY.—The term ‘inter-
 6 ested party’ has the meaning given that term in sec-
 7 tion 771(9).

8 “(b) PROCEDURES FOR INVESTIGATING ALLEGA-
 9 TIONS OF EVASION.—

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

11 “(A) IN GENERAL.—Not later than 10
 12 days after the date on which the Commissioner
 13 receives a petition described in subparagraph
 14 (B) or a referral described in subparagraph (C),
 15 the Commissioner shall initiate an investigation
 16 pursuant to this paragraph if the Commissioner
 17 determines that the information provided in the
 18 petition or the referral, as the case may be, is
 19 accurate and reasonably suggests that covered
 20 merchandise has been entered into the customs
 21 territory of the United States through evasion.

22 “(B) PETITION DESCRIBED.—A petition
 23 described in this subparagraph is a petition
 24 that—

1 “(i) is filed with the Commissioner by
2 any party who is an interested party with
3 respect to covered merchandise;

4 “(ii) alleges that a person has entered
5 covered merchandise into the customs ter-
6 ritory of the United States through eva-
7 sion; and

8 “(iii) is accompanied by information
9 reasonably available to the petitioner sup-
10 porting the allegation.

11 “(C) REFERRAL DESCRIBED.—A referral
12 described in this subparagraph is information
13 submitted to the Commissioner by any other
14 Federal agency, including the Department of
15 Commerce or the United States International
16 Trade Commission, indicating that a person has
17 entered covered merchandise into the customs
18 territory of the United States through evasion.

19 “(2) DETERMINATIONS.—

20 “(A) PRELIMINARY DETERMINATION.—

21 “(i) IN GENERAL.—Not later than 90
22 days after the date on which the Commis-
23 sioner initiates an investigation under
24 paragraph (1), the Commissioner shall
25 issue a preliminary determination, based

1 on information available to the Commis-
2 sioner at the time of the determination,
3 with respect to whether there is a reason-
4 able basis to believe or suspect that the
5 covered merchandise was entered into the
6 customs territory of the United States
7 through evasion.

8 “(ii) EXTENSION.—The Commissioner
9 may extend by not more than 45 days the
10 time period specified in clause (i) if the
11 Commissioner determines that sufficient
12 information to make a preliminary deter-
13 mination under that clause is not available
14 within that time period or the inquiry is
15 unusually complex.

16 “(B) FINAL DETERMINATION.—

17 “(i) IN GENERAL.—Not later than
18 120 days after making a preliminary deter-
19 mination under subparagraph (A), the
20 Commissioner shall make a final deter-
21 mination, based on substantial evidence,
22 with respect to whether covered merchan-
23 dise was entered into the customs territory
24 of the United States through evasion.

1 “(ii) EXTENSION.—The Commissioner
2 may extend by not more than 60 days the
3 time period specified in clause (i) if the
4 Commissioner determines that sufficient
5 information to make a final determination
6 under that clause is not available within
7 that time period or the inquiry is unusually
8 complex.

9 “(C) OPPORTUNITY FOR COMMENT; HEAR-
10 ING.—Before issuing a preliminary determina-
11 tion under subparagraph (A) or a final deter-
12 mination under subparagraph (B) with respect
13 to whether covered merchandise was entered
14 into the customs territory of the United States
15 through evasion, the Commissioner shall—

16 “(i) provide any person alleged to
17 have entered the merchandise into the cus-
18 toms territory of the United States
19 through evasion, and any person that is an
20 interested party with respect to the mer-
21 chandise, with an opportunity to be heard;

22 “(ii) upon request, hold a hearing
23 with respect to whether the covered mer-
24 chandise was entered into the customs ter-

1 ritory of the United States through eva-
2 sion; and

3 “(iii) provide an opportunity for pub-
4 lic comment.

5 “(D) AUTHORITY TO COLLECT AND
6 VERIFY ADDITIONAL INFORMATION.—In making
7 a preliminary determination under subpara-
8 graph (A) or a final determination under sub-
9 paragraph (B), the Commissioner—

10 “(i) shall exercise all existing authori-
11 ties to collect information needed to make
12 the determination; and

13 “(ii) may collect such additional infor-
14 mation as is necessary to make the deter-
15 mination through such methods as the
16 Commissioner considers appropriate, in-
17 cluding by—

18 “(I) issuing a questionnaire with
19 respect to covered merchandise to—

20 “(aa) a person that filed a
21 petition under paragraph (1)(B);

22 “(bb) a person alleged to
23 have entered covered merchan-
24 dise into the customs territory of

1 the United States through eva-
2 sion; or

3 “(cc) any other person that
4 is an interested party with re-
5 spect to the covered merchandise;
6 or

7 “(II) conducting verifications, in-
8 cluding on-site verifications, of any
9 relevant information.

10 “(E) ADVERSE INFERENCE.—

11 “(i) IN GENERAL.—If the Commis-
12 sioner finds that a person that filed a peti-
13 tion under paragraph (1)(B), a person al-
14 leged to have entered covered merchandise
15 into the customs territory of the United
16 States through evasion, or a foreign pro-
17 ducer or exporter, has failed to cooperate
18 by not acting to the best of the person’s
19 ability to comply with a request for infor-
20 mation, the Commissioner may, in making
21 a preliminary determination under sub-
22 paragraph (A) or a final determination
23 under subparagraph (B), use an inference
24 that is adverse to the interests of that per-
25 son in selecting from among the facts oth-

1 otherwise available to determine whether eva-
2 sion has occurred.

3 “(ii) ADVERSE INFERENCE DE-
4 SCRIBED.—An adverse inference used
5 under clause (i) may include reliance on in-
6 formation derived from—

7 “(I) the petition, if any, sub-
8 mitted under paragraph (1)(B) with
9 respect to the covered merchandise;

10 “(II) a determination by the
11 Commissioner in another investigation
12 under this section;

13 “(III) an investigation or review
14 by the administering authority under
15 title VII; or

16 “(IV) any other information
17 placed on the record.

18 “(F) NOTIFICATION AND PUBLICATION.—
19 Not later than 7 days after making a prelimi-
20 nary determination under subparagraph (A) or
21 a final determination under subparagraph (B),
22 the Commissioner shall—

23 “(i) provide notification of the deter-
24 mination to—

1 “(I) the administering authority;
2 and

3 “(II) the person that submitted
4 the petition under paragraph (1)(B)
5 or the Federal agency that submitted
6 the referral under paragraph (1)(C);
7 and

8 “(ii) provide the determination for
9 publication in the Federal Register.

10 “(3) BUSINESS PROPRIETARY INFORMATION.—

11 “(A) ESTABLISHMENT OF PROCEDURES.—

12 For each investigation initiated under para-
13 graph (1), the Commissioner shall establish
14 procedures for the submission of business pro-
15 prietary information under an administrative
16 protective order that—

17 “(i) protects against public disclosure
18 of such information; and

19 “(ii) for purposes of submitting com-
20 ments to the Commissioner, provides lim-
21 ited access to such information for—

22 “(I) the person that submitted
23 the petition under paragraph (1)(B)
24 or the Federal agency that submitted

1 the referral under paragraph (1)(C);
2 and

3 “(II) the person alleged to have
4 entered covered merchandise into the
5 customs territory of the United States
6 through evasion.

7 “(B) ADMINISTRATION IN ACCORDANCE
8 WITH OTHER PROCEDURES.—The procedures
9 established under subparagraph (A) shall be ad-
10 ministered—

11 “(i) to the maximum extent prac-
12 ticable, in a manner similar to the manner
13 in which the administering authority ad-
14 ministers the administrative protective
15 order procedures under section 777;

16 “(ii) in accordance with section 1905
17 of title 18, United States Code; and

18 “(iii) in a manner that is consistent
19 with the obligations of the United States
20 under the Agreement on Implementation of
21 Article VII of the General Agreement on
22 Tariffs and Trade 1994 (referred to in sec-
23 tion 101(d)(8) of the Uruguay Round
24 Agreements Act (19 U.S.C. 3511(d)(8))
25 (relating to customs valuation).

1 “(C) DISCLOSURE OF BUSINESS PROPRI-
2 ETARY INFORMATION.—The Commissioner
3 shall, in accordance with the procedures estab-
4 lished under subparagraph (A) and consistent
5 with subparagraph (B), make all business pro-
6 prietary information presented to, or obtained
7 by, the Commissioner during an investigation
8 available to the persons specified in subpara-
9 graph (A)(ii) under an administrative protective
10 order, regardless of when such information is
11 submitted during an investigation.

12 “(4) REFERRALS TO OTHER FEDERAL AGEN-
13 CIES.—

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

22 “(B) AFTER FINAL DETERMINATION.—
23 Notwithstanding section 777 and subject to
24 subparagraph (C), when the Commissioner
25 makes an affirmative final determination under

1 paragraph (2)(B), the Commissioner shall, at
2 the request of the head of another Federal
3 agency, transmit the complete administrative
4 record to the head of that agency.

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

15 “(c) EFFECT OF DETERMINATIONS.—

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

23 “(A) suspend the liquidation of each unliq-
24 uidated entry of the covered merchandise that
25 is subject to the preliminary determination and

1 that entered on or after the date of the initi-
2 ation of the investigation under paragraph (1);

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

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

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

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

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

7 “(A) suspend or continue to suspend, as
8 the case may be, the liquidation of each entry
9 of the covered merchandise that is subject to
10 the determination and that enters on or after
11 the date of the determination;

12 “(B) notify the administering authority of
13 the determination and request that the admin-
14 istering authority—

15 “(i) identify the applicable anti-
16 dumping or countervailing duty assessment
17 rate for the entries for which liquidation is
18 suspended under paragraph (1)(A) or sub-
19 paragraph (A) of this paragraph; or

20 “(ii) if no such assessment rates are
21 available at the time, identify the applica-
22 ble cash deposit rate to be applied to the
23 entries described in subparagraph (A),
24 with the applicable antidumping or coun-
25 tervailing duty assessment rates to be pro-

1 vided as soon as such rates become avail-
2 able;

3 “(C) require the posting of cash deposits
4 and assess duties on each entry of merchandise
5 described in subparagraph (A) in accordance
6 with the instructions received from the admin-
7 istering authority under paragraph (5);

8 “(D) review and reassess the amount of
9 bond or other security the importer is required
10 to post for merchandise described in subpara-
11 graph (A) to ensure the protection of revenue
12 and compliance with the law; and

13 “(E) take such additional enforcement
14 measures as the Commissioner determines ap-
15 propriate, such as—

16 “(i) initiating proceedings under sec-
17 tion 592 or 596;

18 “(ii) implementing, in consultation
19 with the relevant Federal agencies, rule
20 sets or modifications to rules sets for iden-
21 tifying, particularly through the Auto-
22 mated Targeting System and the Auto-
23 mated Commercial Environment, import-
24 ers, other parties, and merchandise that
25 may be associated with evasion;

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

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

13 “(v) transmitting the administrative
14 record to the administering authority for
15 further appropriate proceedings.

16 “(4) EFFECT OF NEGATIVE FINAL DETERMINA-
17 TION.—If the Commissioner makes a final deter-
18 mination in accordance with subsection (b)(2)(B)
19 that covered merchandise was not entered into the
20 customs territory of the United States through eva-
21 sion, the Commissioner shall terminate the suspen-
22 sion of liquidation pursuant to paragraph (1)(A) and
23 refund any cash deposits collected pursuant to para-
24 graph (1)(C) that are in excess of the cash deposit

1 rate that would otherwise have been applicable the
2 merchandise.

3 “(5) COOPERATION OF ADMINISTERING AU-
4 THORITY.—

5 “(A) IN GENERAL.—Upon receiving a noti-
6 fication from the Commissioner under para-
7 graph (3)(B), the administering authority shall
8 promptly provide to the Commissioner the ap-
9 plicable cash deposit rates and antidumping or
10 countervailing duty assessment rates and any
11 necessary liquidation instructions.

12 “(B) SPECIAL RULE FOR CASES IN WHICH
13 THE PRODUCER OR EXPORTER IS UNKNOWN.—
14 If the Commissioner and administering author-
15 ity are unable to determine the producer or ex-
16 porter of the merchandise with respect to which
17 a notification is made under paragraph (3)(B),
18 the administering authority shall identify, as
19 the applicable cash deposit rate or antidumping
20 or countervailing duty assessment rate, the cash
21 deposit or duty (as the case may be) in the
22 highest amount applicable to any producer or
23 exporter, including the ‘all-others’ rate of the
24 merchandise subject to an antidumping order or
25 countervailing duty order under section 736 or

1 706, respectively, or a finding issued under the
2 Antidumping Act, 1921, or any administrative
3 review conducted under section 751.

4 “(d) SPECIAL RULES.—

5 “(1) EFFECT ON OTHER AUTHORITIES.—Nei-
6 ther the initiation of an investigation under sub-
7 section (b)(1) nor a preliminary determination or a
8 final determination under subsection (b)(2) shall af-
9 fect the authority of the Commissioner—

10 “(A) to pursue such other enforcement
11 measures with respect to the evasion of anti-
12 dumping or countervailing duties as the Com-
13 missioner determines necessary, including en-
14 forcement measures described in clauses (i)
15 through (iv) of subsection (c)(3)(E); or

16 “(B) to assess any penalties or collect any
17 applicable duties, taxes, and fees, including pur-
18 suant to section 592.

19 “(2) EFFECT OF DETERMINATIONS ON FRAUD
20 ACTIONS.—Neither a preliminary determination nor
21 a final determination under subsection (b)(2) shall
22 be determinative in a proceeding under section 592.

23 “(3) NEGLIGENCE OR INTENT.—The Commis-
24 sioner shall investigate and make a preliminary de-
25 termination or a final determination under this sec-

1 tion with respect to whether a person has entered
2 covered merchandise into the customs territory of
3 the United States through evasion without regard to
4 whether the person—

5 “(A) intended to violate an antidumping
6 duty order or countervailing duty order under
7 section 736 or 706, respectively, or a finding
8 issued under the Antidumping Act, 1921; or

9 “(B) exercised reasonable care with respect
10 to avoiding a violation of such an order or find-
11 ing.”.

12 (b) TECHNICAL AMENDMENT.—Clause (ii) of section
13 777(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C.
14 1677f(b)(1)(A)) is amended to read as follows:

15 “(ii) to an officer or employee of U.S.
16 Customs and Border Protection who is di-
17 rectly involved in conducting an investiga-
18 tion regarding fraud under this title or
19 claims of evasion under section 516B.”.

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

22 (1) in subparagraph (A)—

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

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

3 (C) by inserting after clause (ii) the fol-
4 lowing:

5 “(iii) the date of publication in the
6 Federal Register of a determination de-
7 scribed in clause (ix) of subparagraph
8 (B),”; and

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

11 “(ix) A determination by the Commis-
12 sioner responsible for U.S. Customs and
13 Border Protection under section 516B that
14 merchandise has been entered into the cus-
15 toms territory of the United States
16 through evasion.”.

17 (d) FINALITY OF DETERMINATIONS.—Section 514(b)
18 of the Tariff Act of 1930 (19 U.S.C. 1514(b)) is amended
19 by striking “section 303” and all that follows through
20 “which are reviewable” and inserting “section 516B or
21 title VII that are reviewable”.

22 **SEC. 102. APPLICATION TO CANADA AND MEXICO.**

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

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

3 **TITLE II—OTHER MATTERS**

4 **SEC. 201. DEFINITIONS.**

5 In this title, the terms “appropriate congressional
6 committees”, “Commissioner”, “covered merchandise”,
7 “enter” and “entry”, and “evade” and “evasion” have the
8 meanings given those terms in section 516B(a) of the Tar-
9 iff Act of 1930 (as added by section 101 of this Act).

10 **SEC. 202. ALLOCATION OF U.S. CUSTOMS AND BORDER** 11 **PROTECTION PERSONNEL.**

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

15 (1) employs sufficient personnel who have ex-
16 pertise in, and responsibility for, preventing the
17 entry of covered merchandise into the customs terri-
18 tory of the United States through evasion; and

19 (2) on the basis of risk assessment metrics, as-
20 signs sufficient personnel with primary responsibility
21 for preventing the entry of covered merchandise into
22 the customs territory of the United States through
23 evasion to the ports of entry in the United States at
24 which the Commissioner determines potential eva-

1 sion presents the most substantial threats to the rev-
2 enue of the United States.

3 (b) COMMERCIAL ENFORCEMENT OFFICERS.—Not
4 later than September 30, 2011, the Secretary of Home-
5 land Security, the Commissioner, and the Assistant Sec-
6 retary for U.S. Immigration and Customs Enforcement
7 shall assess and properly allocate the resources of U.S.
8 Customs and Border Protection and U.S. Immigration
9 and Customs Enforcement—

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

12 (2) to improve efforts to investigate and combat
13 evasion.

14 **SEC. 203. REGULATIONS.**

15 (a) IN GENERAL.—Not later than 240 days after the
16 date of the enactment of this Act, the Commissioner shall
17 issue regulations to carry out this title and the amend-
18 ments made by title I.

19 (b) COOPERATION BETWEEN U.S. CUSTOMS AND
20 BORDER PROTECTION, U.S. IMMIGRATION AND CUSTOMS
21 ENFORCEMENT, AND DEPARTMENT OF COMMERCE.—Not
22 later than 240 days after the date of the enactment of
23 this Act, the Commissioner, the Assistant Secretary for
24 U.S. Immigration and Customs Enforcement, and the Sec-
25 retary of Commerce shall establish procedures to ensure

1 maximum cooperation and communication between U.S.
2 Customs and Border Protection, U.S. Immigration and
3 Customs Enforcement, and the Department of Commerce
4 in order to quickly, efficiently, and accurately investigate
5 allegations of evasion under section 516B of the Tariff
6 Act of 1930 (as added by section 101 of this Act).

7 **SEC. 204. ANNUAL REPORT ON PREVENTION OF EVASION**
8 **OF ANTIDUMPING AND COUNTERVAILING**
9 **DUTY ORDERS.**

10 (a) IN GENERAL.—Not later than February 28 of
11 each year, beginning in 2012, the Commissioner, in con-
12 sultation with the Secretary of Commerce, shall submit to
13 the appropriate congressional committees a report on the
14 efforts being taken pursuant to section 516B of the Tariff
15 Act of 1930 (as added by section 101 of this Act) to pre-
16 vent the entry of covered merchandise into the customs
17 territory of the United States through evasion.

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

20 (1) for the fiscal year preceding the submission
21 of the report—

22 (A) the number and a brief description of
23 petitions and referrals received pursuant to sec-
24 tion 516B(b)(1) of the Tariff Act of 1930 (as
25 added by section 101 of this Act);

1 (B) the results of the investigations initi-
2 ated under such section, including any related
3 enforcement actions, and the amount of anti-
4 dumping and countervailing duties collected as
5 a result of those investigations; and

6 (C) to the extent appropriate, a summary
7 of the efforts of U.S. Customs and Border Pro-
8 tection, other than efforts initiated pursuant
9 section 516B of the Tariff Act of 1930 (as
10 added by section 101 of this Act), to prevent
11 the entry of covered merchandise into the cus-
12 toms territory of the United States through
13 evasion; and

14 (2) for the 3 fiscal years preceding the submis-
15 sion of the report, an estimate of—

16 (A) the amount of covered merchandise
17 that entered the customs territory of the United
18 States through evasion; and

19 (B) the amount of duties that could not be
20 collected on such merchandise because the Com-
21 missioner did not have the authority to reliq-
22 uidate the entries of such merchandise.

1 **SEC. 205. GOVERNMENT ACCOUNTABILITY OFFICE REPORT**
2 **ON RELIQUIDATION AUTHORITY.**

3 Not later than 60 days after the date of the enact-
4 ment of this Act, the Comptroller General of the United
5 States shall submit to the appropriate congressional com-
6 mittees, and make available to the public, a report esti-
7 mating the amount of duties that could not be collected
8 on covered merchandise that entered the customs territory
9 of the United States through evasion during fiscal years
10 2009 and 2010 because the Commissioner did not have
11 the authority to reliquidate the entries of such merchan-
12 dise.

○