#### 112TH CONGRESS 2D SESSION

# H. R. 6642

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

#### IN THE HOUSE OF REPRESENTATIVES

**DECEMBER 7, 2012** 

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

### A BILL

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

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,
- 3 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
- 4 (a) Short Title.—This Act may be cited as the
- 5 "Customs Trade Facilitation and Enforcement Act of
- 6 2012".
- 7 (b) Table of Contents.—The table of contents for
- 8 this Act is as follows:
  - Sec. 1. Short title; table of contents.
  - Sec. 2. Definitions.

#### TITLE I—CUSTOMS FACILITATION

#### Subtitle A—Functions Other Than Investigative Functions

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

#### Subtitle B—Investigative Functions

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

#### Subtitle C—Joint Strategic Plan

Sec. 131. Joint Strategic Plan.

# TITLE II—CUSTOMS FACILITATION, TRADE ENFORCEMENT, AND TRANSPARENCY

#### Subtitle A—Customs Facilitation and Transparency

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

#### Subtitle B—Trade Enforcement

#### CHAPTER 1—COMMERCIAL RISK ASSESSMENT TARGETING

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

#### CHAPTER 2—IMPORTER REQUIREMENTS

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

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

#### Chapter 3—Import-Related Protection of Intellectual Property Rights

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

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

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

#### Subtitle A—Actions Relating to Enforcement of Trade Remedy Laws

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

#### Subtitle B—Other Matters

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

#### TITLE IV—MISCELLANEOUS PROVISIONS

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

#### TITLE V—OTHER TRADE AGENCIES

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

#### 1 SEC. 2. DEFINITIONS.

- 2 In this Act:
- 3 (1) Commercial customs operations advi-
- 4 SORY COMMITTEE.—The term "Commercial Customs
- 5 Operations Advisory Committee" means the Advi-

| 1  | sory Committee established pursuant to section 202 |
|----|--|
| 2  | of this Act or any successor committee.            |
| 3  | (2) COMMERCIAL OPERATIONS.—The term                |
| 4  | "commercial operations", with respect to the U.S.  |
| 5  | Customs and Border Protection Agency, includes—    |
| 6  | (A) administering any customs revenue              |
| 7  | function delegated by the Secretary of the         |
| 8  | Treasury to the Secretary of Homeland Secu-        |
| 9  | rity pursuant to section 412 of the Homeland       |
| 10 | Security Act of 2002 (6 U.S.C. 212);               |
| 11 | (B) facilitating legitimate international          |
| 12 | trade, and enforcing the customs and trade         |
| 13 | laws of the United States to the extent of the     |
| 14 | authority of the Commissioner under such laws      |
| 15 | (C) coordinating all efforts of the Depart-        |
| 16 | ment of Homeland Security to facilitate legiti-    |
| 17 | mate international trade and to enforce the cus-   |
| 18 | toms and trade laws of the United States;          |
| 19 | (D) coordinating, on behalf of the Depart-         |
| 20 | ment of Homeland Security, efforts among ex-       |
| 21 | ecutive branch agencies to facilitate legitimate   |
| 22 | trade and to enforce the customs and trade         |
| 23 | laws of the United States, including—              |

| 1  | (i) representing the Department of                 |
|----|--|
| 2  | Homeland Security in interagency for aad-          |
| 3  | dressing such efforts; and                         |
| 4  | (ii) coordinating with the Director of             |
| 5  | U.S. Immigration and Customs Enforce-              |
| 6  | ment to develop and implement the Joint            |
| 7  | Strategic Plan;                                    |
| 8  | (E) coordinating, on behalf of the United          |
| 9  | States, efforts with foreign customs agencies to   |
| 10 | facilitate legitimate international trade and to   |
| 11 | enforce the customs and trade laws of the          |
| 12 | United States and of foreign countries;            |
| 13 | (F) collecting, assessing, and disseminating       |
| 14 | information as appropriate and in accordance       |
| 15 | with law, regarding cargo destined for the         |
| 16 | United States, to ensure that such cargo com-      |
| 17 | plies with the customs and trade laws of the       |
| 18 | United States and to facilitate the legitimate     |
| 19 | international trade of such cargo;                 |
| 20 | (G) soliciting and considering on a regular        |
| 21 | basis input from the private sector, including     |
| 22 | the Commercial Customs Operations Advisory         |
| 23 | Committee, the Trade Support Network, and          |
| 24 | other entities affected by the efforts of the Fed- |

eral Government to facilitate legitimate inter-

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| 1  | national trade and to enforce the customs and      |
|----|--|
| 2  | trade laws of the United States, with respect      |
| 3  | to—  |
| 4  | (i) the implementation of new or                   |
| 5  | amended customs and trade laws of the              |
| 6  | United States; and                                 |
| 7  | (ii) the development, implementation,              |
| 8  | or revision of policies or regulations admin-      |
| 9  | istered by the U.S. Customs and Border             |
| 10 | Protection Agency; and                             |
| 11 | (H) otherwise advising the Secretary of            |
| 12 | Homeland Security with respect to the develop-     |
| 13 | ment of policies associated with facilitating le-  |
| 14 | gitimate international trade and enforcing the     |
| 15 | customs and trade laws of the United States.       |
| 16 | (3) Customs and trade laws of the                  |
| 17 | UNITED STATES.—The term "customs and trade         |
| 18 | laws of the United States" includes the following: |
| 19 | (A) The Tariff Act of 1930.                        |
| 20 | (B) Section 249 of the Revised Statutes of         |
| 21 | the United States (19 U.S.C. 3).                   |
| 22 | (C) Section 2 of the Act of March 4, 1923          |
| 23 | (19 U.S.C. 6).                                     |

| 1  | (D) Section 13031 of the Consolidated        |
|----|--|
| 2  | Omnibus Budget Reconciliation Act of 1985    |
| 3  | (19 U.S.C. 58c).                             |
| 4  | (E) Section 251 of the Revised Statutes of   |
| 5  | the United States (19 U.S.C. 66).            |
| 6  | (F) Section 1 of the Act of June 26, 1930    |
| 7  | (19 U.S.C. 68).                              |
| 8  | (G) The Foreign Trade Zones Act (19          |
| 9  | U.S.C. 81a et seq.).                         |
| 10 | (H) Section 1 of the Act of March 2, 1911    |
| 11 | (19 U.S.C. 198).                             |
| 12 | (I) The Trade Act of 1974.                   |
| 13 | (J) The Trade Agreements Act of 1979.        |
| 14 | (K) The North American Free Trade Area       |
| 15 | Implementation Act.                          |
| 16 | (L) The Uruguay Round Agreements Act.        |
| 17 | (M) The Caribbean Basin Economic Re-         |
| 18 | covery Act.                                  |
| 19 | (N) The Andean Trade Preference Act.         |
| 20 | (O) The African Growth and Opportunity       |
| 21 | Act.   |
| 22 | (P) The Act of March 3, 1927 (44 Stat.       |
| 23 | 1381, chapter 348; 19 U.S.C. 2071 et seq.).  |
| 24 | (Q) The Customs Enforcement Act of           |
| 25 | 1986 (Public Law 99–570; 100 Stat. 3207–79). |

| 1  | (R) The Customs and Trade Act of 1990           |
|----|---|
| 2  | (Public Law 101–382; 104 Stat. 629).            |
| 3  | (S) The Customs Procedural Reform and           |
| 4  | Simplification Act of 1978 (Public Law 95-      |
| 5  | 410; 92 Stat. 888).                             |
| 6  | (T) The Trade Act of 2002 (Public Law           |
| 7  | 107–210; 116 Stat. 933).                        |
| 8  | (U) The Convention on Cultural Property         |
| 9  | Implementation Act (19 U.S.C. 2601 et seq.).    |
| 10 | (V) The Act of August 7, 1939 (53 Stat.         |
| 11 | 1263, chapter 566; 19 U.S.C. 2077 et seq.).     |
| 12 | (W) Any other provision of law vesting          |
| 13 | customs revenue functions in the Secretary of   |
| 14 | the Treasury.                                   |
| 15 | (X) Any other provision of law relating to      |
| 16 | customs facilitation or trade enforcement that  |
| 17 | is administered by the U.S. Customs and Bor-    |
| 18 | der Protection Agency on behalf of any Federal  |
| 19 | agency that is required to participate in the   |
| 20 | International Trade Data System established     |
| 21 | pursuant to section 411(d) of the Tariff Act of |
| 22 | 1930 (19 U.S.C. 1411(d)), as amended by sec-    |
| 23 | tion 204 of this Act.                           |

| 1  | (Y) Any other provision of customs or               |
|----|---|
| 2  | trade law administered by the U.S. Customs          |
| 3  | and Border Protection Agency.                       |
| 4  | (4) Customs revenue function.—The term              |
| 5  | "customs revenue function" has the meaning given    |
| 6  | that term in section 415 of the Homeland Security   |
| 7  | Act of 2002 (6 U.S.C. 215).                         |
| 8  | (5) Importer.—The term "importer" means             |
| 9  | one of the parties qualifying as an importer of     |
| 10 | record under section 484(a)(2)(B) of the Tariff Act |
| 11 | of 1930 (19 U.S.C. 1484(a)(2)(B)).                  |
| 12 | (6) Nonresident importer.—The term "non-            |
| 13 | resident importer" means an importer who is—        |
| 14 | (A) an individual who is not a citizen of           |
| 15 | the United States or an alien lawfully admitted     |
| 16 | for permanent residence in the United States;       |
| 17 | or  |
| 18 | (B) a partnership, corporation, or other            |
| 19 | commercial entity that is not organized under       |
| 20 | the laws of a jurisdiction within the customs       |
| 21 | territory of the United States (as such term is     |
| 22 | defined in General Note 2 of the Harmonized         |
| 23 | Tariff Schedule of the United States) or in the     |
|    |   |

Virgin Islands of the United States.

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| 1  | (7) Joint Strategic Plan.—The term "Joint            |
|----|--|
| 2  | Strategic Plan' means the plan required by section   |
| 3  | 131 of this Act.                                     |
| 4  | (8) Trade support network.—The term                  |
| 5  | "Trade Support Network" means representatives of     |
| 6  | the private sector that provide input on the design  |
| 7  | and development of modernization projects of the     |
| 8  | U.S. Customs and Border Protection Agency.           |
| 9  | TITLE I—CUSTOMS                                      |
| 10 | <b>FACILITATION</b>                                  |
| 11 | <b>Subtitle A—Functions Other Than</b>               |
| 12 | <b>Investigative Functions</b>                       |
| 13 | SEC. 101. ESTABLISHMENT OF AGENCY; COMMISSIONER.     |
| 14 | (a) In General.—The first section of the Act of      |
| 15 | March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. |
| 16 | 2071), is amended to read as follows:                |
| 17 | "SEC. 1. ESTABLISHMENT OF U.S. CUSTOMS AND BORDER    |
| 18 | PROTECTION AGENCY; COMMISSIONER.                     |
| 19 | "(a) Establishment of U.S. Customs and Bor-          |
| 20 | DER PROTECTION AGENCY.—There is established in the   |
| 21 | Department of Homeland Security the U.S. Customs and |
| 22 | Border Protection Agency.                            |
| 23 | "(b) Establishment of Commissioner of U.S.           |
| 24 | CUSTOMS AND BORDER PROTECTION.—The head of the       |
| 25 | U.S. Customs and Border Protection Agency shall be a |

| 1  | Commissioner of U.S. Customs and Border Protection (in  |
|----|---|
| 2  | this Act referred to as the 'Commissioner'), who shall— |
| 3  | "(1) be appointed by the President, by and with         |
| 4  | the advice and consent of the Senate;                   |
| 5  | "(2) carry out the duties described in sub-             |
| 6  | section (e); and  |
| 7  | "(3) report directly to the Secretary of Home-          |
| 8  | land Security.  |
| 9  | "(c) Duties.—   |
| 10 | "(1) In general.—The Commissioner shall—                |
| 11 | "(A) carry out the duties and powers pre-               |
| 12 | scribed by law or by the Secretary of Homeland          |
| 13 | Security;   |
| 14 | "(B) direct the administration of the com-              |
| 15 | mercial operations of the U.S. Customs and              |
| 16 | Border Protection Agency and the enforcement            |
| 17 | of the customs and trade laws of the United             |
| 18 | States; and   |
| 19 | "(C) otherwise safeguard the economic and               |
| 20 | homeland security interests of the United               |
| 21 | States at land borders and ports of entry.              |
| 22 | "(2) DEFINITIONS.—In this subsection, the               |
| 23 | terms 'commercial operations' and 'customs and          |
| 24 | trade laws of the United States' have the meanings      |

- given such terms in section 2 of the Customs Trade
- 2 Facilitation and Enforcement Act of 2012.
- 3 "(d) Absence or Disability of Commissioner.—
- 4 The Deputy Commissioner of U.S. Customs and Border
- 5 Protection, appointed pursuant to section 2, shall act as
- 6 Commissioner of U.S. Customs and Border Protection
- 7 during the absence or disability of the Commissioner of
- 8 U.S. Customs and Border Protection, or in the event that
- 9 there is no Commissioner of U.S. Customs and Border
- 10 Protection.".
- 11 (b) Administrative Continuity.—
- 12 (1) IN GENERAL.—The Act of March 3, 1927
- 13 (44 Stat. 1381, chapter 348; 19 U.S.C. 2073), is
- amended by striking section 3 and inserting the fol-
- lowing:
- 16 "SEC. 3. TRANSFER OF FUNCTIONS, ASSETS, LIABILITIES,
- 17 AND DUTIES.
- 18 "(a) IN GENERAL.—Effective on the date of the en-
- 19 actment of the Customs Trade Facilitation and Enforce-
- 20 ment Act of 2012, the functions and associated personnel,
- 21 assets, and liabilities, identified under section 411 of the
- 22 Homeland Security Act of 2002 (6 U.S.C. 211) on the
- 23 day before such date of enactment, are transferred to the
- 24 U.S. Customs and Border Protection Agency.

- 1 "(b) Continuation in Office.—The individual
- 2 serving as Commissioner of Customs, in the Department
- 3 of Homeland Security, on the day before the date of the
- 4 enactment of the Customs Trade Facilitation and En-
- 5 forcement Act of 2012 may serve as the Commissioner of
- 6 the U.S. Customs and Border Protection Agency until the
- 7 earlier of—
- 8 "(1) the date on which such individual is no
- 9 longer eligible to serve as Commissioner of Customs;
- 10 or
- "(2) the date on which a person nominated by
- the President to be the Commissioner of U.S. Cus-
- toms and Border Protection is confirmed by the
- 14 Senate.".
- 15 (2) Repeal.—Section 411 of the Homeland Se-
- 16 curity Act of 2002 (6 U.S.C. 211), and the item re-
- lating to that section in the table of contents for
- that Act, are repealed.
- 19 (c) Reference.—On and after the effective date of
- 20 this Act, any reference in law or regulations to the "Com-
- 21 missioner of Customs" or the "Commissioner of the Cus-
- 22 toms Service" shall be deemed to be a reference to the
- 23 Commissioner of U.S. Customs and Border Protection es-
- 24 tablished pursuant to section 1 of the Act of March 3,
- 25 1927, as amended by subsection (a) of this section.

| 1  | (d) Compensation.—Section 5314 of title 5, United          |
|----|--|
| 2  | States Code, is amended by striking "Commissioner of       |
| 3  | Customs, Department of Homeland Security" and insert-      |
| 4  | ing "Commissioner of U.S. Customs and Border Protec-       |
| 5  | tion, Department of Homeland Security".                    |
| 6  | SEC. 102. OFFICERS AND EMPLOYEES.                          |
| 7  | (a) Deputy Commissioner.—Section 2 of the Act              |
| 8  | of March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C.    |
| 9  | 2072), is amended by striking subsection (a) and inserting |
| 10 | the following:   |
| 11 | "(a) Deputy Commissioner.—                                 |
| 12 | "(1) IN GENERAL.—There shall be in the U.S.                |
| 13 | Customs and Border Protection Agency established           |
| 14 | by the first section, 1 Deputy Commissioner who            |
| 15 | shall be appointed by the President, by and with the       |
| 16 | advice and consent of the Senate.                          |
| 17 | "(2) QUALIFICATIONS.—A person appointed to                 |
| 18 | be the Deputy Commissioner of U.S. Customs and             |
| 19 | Border Protection shall have a minimum of 10 years         |
| 20 | of professional experience in the operation of the         |
| 21 | customs and trade laws of the United States.               |
| 22 | "(3) Duties.—The duties of the Deputy Com-                 |
| 23 | missioner shall include—                                   |
| 24 | "(A) overseeing the commercial operations                  |
| 25 | of the U.S. Customs and Border Protection                  |

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

"(B) resolving issues relating to the commercial operations of the U.S. Customs and Border Protection Agency, including liaising between offices primarily charged with carrying out the commercial operations of the Agency and any operational or port level office, including the Office of Field Operations or any successor office, in the administration of duties relating to the commercial operations of the Agency;

"(C) overseeing the development and implementation information technology, research, and communication functions of the U.S. Border and Protection Agency that affect the commercial operations of the Agency, including modernization strategies, that support the commercial operations of the Agency, including the implementation of the Automated Commercial Environment computer system authorized under section 13031(f)(5) of the Consolidated Omni-

| 1  | bus Budget and Reconciliation Act of 1985 (19   |
|----|---|
| 2  | U.S.C. $58e(f)(5)$ ;                            |
| 3  | "(D) overseeing the customs revenue func-       |
| 4  | tions of the U.S. Customs and Border Protec-    |
| 5  | tion Agency in consultation, as appropriate,    |
| 6  | with the Deputy Assistant Secretary for Tax,    |
| 7  | Trade, and Tariff Policy of the Department of   |
| 8  | the Treasury or any successor position;         |
| 9  | "(E) overseeing the administration of cus-      |
| 10 | toms revenue functions of the U.S. Customs      |
| 11 | and Border Protection Agency; and               |
| 12 | "(F) consulting with the Committee on Fi-       |
| 13 | nance of the Senate and the Committee on        |
| 14 | Ways and Means of the House of Representa-      |
| 15 | tives on a regular and timely basis regarding   |
| 16 | the administration of the commercial operations |
| 17 | of the U.S. Customs and Border Protection       |
| 18 | Agency, including—                              |
| 19 | "(i) the status and substance of inter-         |
| 20 | national negotiations relating to the cus-      |
| 21 | toms and trade laws of the United States,       |
| 22 | or of foreign countries, in which personnel     |
| 23 | of the Agency are participating;                |

| 1  | "(ii) the resource needs of the Agency                  |
|----|---|
| 2  | in relation to the commercial operations of             |
| 3  | the Agency;   |
| 4  | "(iii) any proposed changes to policy,                  |
| 5  | regulations, interpretations, or practices              |
| 6  | that relate to commercial operations;                   |
| 7  | "(iv) any legislative proposals that the                |
| 8  | Agency or the Department of Homeland                    |
| 9  | Security provides to other committees of                |
| 10 | the Senate or the House of Representatives              |
| 11 | or individual members of such committees                |
| 12 | that relate to the commercial operations of             |
| 13 | the Agency; and   |
| 14 | "(v) the implementation of new or                       |
| 15 | amended customs and trade laws of the                   |
| 16 | United States.  |
| 17 | "(4) Absence or disability of deputy com-               |
| 18 | MISSIONER.—The Assistant Commissioner of the Of-        |
| 19 | fice of International Trade shall act as the Deputy     |
| 20 | Commissioner during the disability of the Deputy        |
| 21 | Commissioner, or in the event that there is no Dep-     |
| 22 | uty Commissioner.".                                     |
| 23 | (b) TRADE ADVOCATE.—Section 2 of the Act of             |
| 24 | March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C.    |
| 25 | 2072), as amended by subsection (a) of this section, is |

| 1  | further amended by striking subsection (b) and inserting |
|----|--|
| 2  | the following:   |
| 3  | "(b) Trade Advocate.—                                    |
| 4  | "(1) In General.—The Commissioner shall                  |
| 5  | appoint within the U.S. Customs and Border Protec-       |
| 6  | tion Agency, a Trade Advocate, who shall report di-      |
| 7  | rectly to the Commissioner.                              |
| 8  | "(2) QUALIFICATIONS.—A person appointed to               |
| 9  | be Trade Advocate shall have not less than 5 years       |
| 10 | experience working in international trade in the pri-    |
| 11 | vate sector.   |
| 12 | "(3) Duties.—The Trade Advocate shall—                   |
| 13 | "(A) serve as the primary liaison between                |
| 14 | the U.S. Customs and Border Protection Agen-             |
| 15 | cy and the public with respect to the Agency's           |
| 16 | administration of customs facilitation and trade         |
| 17 | enforcement functions;                                   |
| 18 | "(B) assist the Commissioner in resolving                |
| 19 | issues relating to the commercial operations of          |
| 20 | the Agency by effectively communicating the              |
| 21 | perspectives held by interested parties in the           |
| 22 | private sector and other private commercial in-          |
| 23 | terests;   |
| 24 | "(C) consult with interested parties in the              |
| 25 | private sector, the Commercial Customs Oper-             |

| 1  | ations Advisory Committee, and the Trade Sup- |
|----|---|
| 2  | port Network, for their input with respect to |
| 3  | the Agency's—                                 |
| 4  | "(i) development and implementation           |
| 5  | of rules, regulations, decisions, and notices |
| 6  | related to the customs and trade laws of      |
| 7  | the United States administered by the         |
| 8  | Agency;                                       |
| 9  | "(ii) development of the Joint Stra-          |
| 10 | tegic Plan required under section 131 of      |
| 11 | the Customs Trade Facilitation and En-        |
| 12 | forcement Act of 2012;                        |
| 13 | "(iii) assessment of the effectiveness        |
| 14 | of customs facilitation and trade enforce-    |
| 15 | ment efforts; and                             |
| 16 | "(iv) trade modernization activities,         |
| 17 | including the development and implementa-     |
| 18 | tion of the Automated Commercial Envi-        |
| 19 | ronment computer system authorized            |
| 20 | under section $13031(f)(5)$ of the Consoli-   |
| 21 | dated Omnibus Budget and Reconciliation       |
| 22 | Act of 1985 (19 U.S.C. $58c(f)(5)$ ) and      |
| 23 | support for the establishment of the Inter-   |
| 24 | national Trade Data System under the          |
| 25 | oversight of the Department of the Treas-     |

- 1 ury pursuant to section 411(d) of the Tar-2 iff Act of 1930 (19 U.S.C. 1411(d)); "(D) advise the Commissioner with respect 3 to the consultations described in subparagraph 4 (C); and 6 "(E) otherwise consult with the public as 7 directed by the Commissioner or by law.". 8 (c) Other Officers.—Section 2 of the Act of March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 10 2072), as amended by subsections (a) and (b) of this sec-
- tion, is further amended by striking subsection (c) and in-11
- serting the following: 12
- 13 "(c) Other Officers.—The Secretary of Homeland
- Security may appoint such other officers as are necessary 14
- 15 to manage the individual offices within the U.S. Customs
- and Border Protection Agency. Any appointment of per-16
- 17 sonnel under this subsection shall be subject to the provi-
- 18 sions of the civil service laws, and the salaries of such per-
- sonnel shall be fixed in accordance with chapter 51 and 19
- 20 subchapter III of chapter 53 of title 5, United States
- 21 Code.".
- 22 (d) Office of International Trade.—Section
- 23 2(d) of the Act of March 3, 1927 (44 Stat. 1381, chapter
- 348; 19 U.S.C. 2072(d)), is amended—

| 1  | (1) in paragraph (1), by striking "United         |
|----|---|
| 2  | States Customs and Border Protection" and insert- |
| 3  | ing "U.S. Customs and Border Protection Agency";  |
| 4  | and   |
| 5  | (2) in paragraph (2)—                             |
| 6  | (A) in the heading, by striking "; ELIMI-         |
| 7  | NATION OF OFFICES";                               |
| 8  | (B) by striking subparagraph (A) and in-          |
| 9  | serting the following:                            |
| 10 | "(A) Office of field operations.—                 |
| 11 | "(i) Transfer.—                                   |
| 12 | "(I) IN GENERAL.—Not later                        |
| 13 | than 90 days after the date of enact-             |
| 14 | ment of the Customs Trade Enforce-                |
| 15 | ment and Facilitation Act of 2012,                |
| 16 | the Commissioner shall transfer to the            |
| 17 | Office of International Trade estab-              |
| 18 | lished pursuant to paragraph (1) the              |
| 19 | assets, functions (other than adminis-            |
| 20 | trative functions), and personnel de-             |
| 21 | scribed in subclause (II) of the Office           |
| 22 | of Field Operations.                              |
| 23 | "(II) Personnel described.—                       |
| 24 | The personnel of the Office of Field              |

| 1  | Operations referred to in subclause (I)     |
|----|---|
| 2  | are the following:                          |
| 3  | "(aa) Personnel having the                  |
| 4  | statutory authority to classify             |
| 5  | and appraise goods entering the             |
| 6  | United States.                              |
| 7  | "(bb) Personnel having the                  |
| 8  | responsibility to act as principal          |
| 9  | point of contact and technical ex-          |
| 10 | perts with respect to goods enter-          |
| 11 | ing the United States, including            |
| 12 | responsibilities relating to collec-        |
| 13 | tion and deposit of duties, taxes,          |
| 14 | and fees.                                   |
| 15 | "(cc) Such other personnel                  |
| 16 | as the Commissioner determines              |
| 17 | to be necessary.                            |
| 18 | "(ii) Assistant commissioner in             |
| 19 | THE OFFICE OF INTERNATIONAL TRADE.—         |
| 20 | The assets, functions, and personnel trans- |
| 21 | ferred to the Office of International Trade |
| 22 | pursuant to clause (i) shall be under the   |
| 23 | authority of the Assistant Commissioner in  |
| 24 | the Office of International Trade.          |

| 1  | "(iii) Training.—Not later than 18            |
|----|---|
| 2  | months after the date of the enactment of     |
| 3  | the Customs Trade Enforcement and Fa-         |
| 4  | cilitation Act of 2012, the Commissioner      |
| 5  | shall ensure that sufficient training with    |
| 6  | respect to facilitating legitimate inter-     |
| 7  | national trade and enforcing the customs      |
| 8  | and trade laws of the United States has       |
| 9  | been provided to personnel transferred to     |
| 10 | the Office of International Trade pursuant    |
| 11 | to clause (i).                                |
| 12 | "(iv) Limitation on funds.—No                 |
| 13 | funds appropriated to the U.S. Customs        |
| 14 | and Border Protection Agency may be           |
| 15 | used to transfer the assets, functions, or    |
| 16 | personnel of the Office of Field Operations   |
| 17 | to an office other than the Office of Inter-  |
| 18 | national Trade.".                             |
| 19 | (C) by striking subparagraph (B);             |
| 20 | (D) by redesignating subparagraphs (C)        |
| 21 | through (F) as subparagraphs (B) through (E), |
| 22 | respectively;                                 |
| 23 | (E) in subparagraph (B), as redesignated      |
| 24 | by subparagraph (D) of this paragraph, by     |
| 25 | striking "United States Customs and Border    |

| 1  | Protection" and inserting "U.S. Customs and          |
|----|--|
| 2  | Border Protection Agency"; and                       |
| 3  | (F) in subparagraph (E), as redesignated             |
| 4  | by subparagraph (D) of this paragraph—               |
| 5  | (i) by striking "United States Cus-                  |
| 6  | toms and Border Protection" and inserting            |
| 7  | "U.S. Customs and Border Protection                  |
| 8  | Agency"; and   |
| 9  | (ii) by striking "subparagraph                       |
| 10 | (E)(ii)" and inserting "subparagraph                 |
| 11 | (D)(ii)".  |
| 12 | (e) Definitions.—Section 2(f) of the Act of March    |
| 13 | 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 2072) |
| 14 | is amended to read as follows:                       |
| 15 | "(f) Definitions.—In this section—                   |
| 16 | "(1) the term 'Commissioner' means the Com-          |
| 17 | missioner of U.S. Customs and Border Protection;     |
| 18 | and  |
| 19 | "(2) the terms 'Commercial Customs Oper-             |
| 20 | ations Advisory Committee', 'commercial operations', |
| 21 | 'customs and trade laws of the United States', and   |
| 22 | 'Trade Support Network' have the meaning given       |
| 23 | such terms in section 2 of the Customs Trade Facili- |
| 24 | tation and Enforcement Act of 2012.".                |

- 1 (f) Establishment of Interagency Customs Re-
- 2 VIEW BOARD.—The Act of March 3, 1927 (44 Stat. 1381,
- 3 chapter 348; 19 U.S.C. 2071 et seq.), is amended by in-
- 4 serting after section 3 the following:
- 5 "SEC. 4. ESTABLISHMENT OF INTERAGENCY CUSTOMS RE-
- 6 VIEW BOARD.
- 7 "(a) Establishment.—There is established an
- 8 interagency Customs Review Board.
- 9 "(b) Membership.—The interagency Customs Re-
- 10 view Board shall be comprised of the Commissioner, the
- 11 Assistant Secretary for Policy in the Department of
- 12 Homeland Security, the Assistant Secretary for Tax Pol-
- 13 icy in the Department of the Treasury, the Under Sec-
- 14 retary for International Trade in the Department of Com-
- 15 merce, and 1 Deputy United States Trade Representative
- 16 designated by the United States Trade Representative to
- 17 serve on the interagency Customs Review Board. The
- 18 interagency Customs Review Board shall be co-chaired by
- 19 the Commissioner and the Assistant Secretary for Tax
- 20 Policy in the Department of the Treasury.
- 21 "(c) Referral.—The Commissioner of U.S. Cus-
- 22 toms and Border Protection shall notify and provide full
- 23 documentation to the interagency Customs Review Board
- 24 not less than 30 days prior to publically proposing any
- 25 change to a regulation, interpretation, or practice of the

- 1 Agency relating to commercial operations of the Agency
- 2 that could reasonably be expected to affect compliance by
- 3 the United States Government with its international trade
- 4 obligations.
- 5 "(d) Duties.—The interagency Customs Review
- 6 Board shall—
- 7 "(1) review any proposed change to a regula-
- 8 tion, interpretation, or practice of the Agency re-
- 9 ferred to the interagency Customs Review Board by
- the Commissioner under subsection (c) to determine
- if the change conforms to the international trade ob-
- ligations of the United States; and
- "(2) advise the Commissioner of U.S. Customs
- and Border Protection, not later than 30 days after
- receiving notification of a proposed change under
- paragraph (1), as to whether or not and the extent
- to which the change conforms to the international
- trade obligations of the United States and other
- 19 cross-border initiatives.
- 20 "(e) Definition.—In this section, the term 'com-
- 21 mercial operations' has the meaning given the term in sec-
- 22 tion 2 of the Customs Trade Facilitation and Enforcement
- 23 Act of 2012.".

- 1 (g) Compensation.—Section 5315 of title 5, United
- 2 States Code, is amended by adding at the end the fol-
- 3 lowing:
- 4 "Deputy Commissioner of U.S. Customs and
- 5 Border Protection, Department of Homeland Secu-
- 6 rity.".

#### 7 SEC. 103. SEPARATE BUDGET FOR U.S. CUSTOMS AND BOR-

- 8 DER PROTECTION AGENCY.
- 9 (a) In General.—The President shall include in
- 10 each budget transmitted to Congress under section 1105
- 11 of title 31, United States Code, a separate budget request
- 12 for the commercial operations of the U.S. Customs and
- 13 Border Protection Agency.
- 14 (b) Repeal.—Section 414 of the Homeland Security
- 15 Act of 2002 (6 U.S.C. 214), and the item relating to that
- 16 section in the table of contents of that Act, are repealed.
- 17 SEC. 104. REVOLVING FUND.
- 18 The matter under the heading "REVOLVING FUND,
- 19 BUREAU OF CUSTOMS" in the Treasury and Post Office
- 20 Departments Appropriation Act, 1950 (63 Stat. 360,
- 21 chapter 286; 19 U.S.C. 2074), is amended by striking
- 22 "Bureau of Customs" and inserting "U.S. Customs and
- 23 Border Protection Agency".

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

- The matter under the heading "BUREAU OF CUS-
- 3 Toms" in title I of the Treasury Department Appropria-
- 4 tion Act 1940 (53 Stat. 660, chapter 115; 19 U.S.C.
- 5 2076), is amended in the last proviso by striking "Bureau
- 6 of Customs" and inserting "U.S. Customs and Border
- 7 Protection Agency or U.S. Immigration and Customs En-
- 8 forcement".
- 9 SEC. 106. ADVANCES FOR ENFORCEMENT OF CUSTOMS
- 10 **PROVISIONS.**
- 11 Section 2 of the Act entitled "An Act to provide for
- 12 advances of funds by special disbursing agents in connec-
- 13 tion with the enforcement of Acts relating to narcotic
- 14 drugs", approved March 28, 1928 (19 U.S.C. 2077), is
- 15 amended to read as follows:
- 16 "SEC. 2. ADVANCES FOR ENFORCEMENT OF CUSTOMS PRO-
- 17 VISIONS.
- 18 "The Commissioner of U.S. Customs and Border
- 19 Protection and the Director of U.S. Immigration and Cus-
- 20 toms Enforcement, with the approval of the Secretary of
- 21 Homeland Security and the Secretary of the Treasury, are
- 22 each authorized to direct the advance of funds by the Fis-
- 23 cal Service in the Department of the Treasury, in connec-
- 24 tion with the enforcement of the customs and trade laws
- 25 of the United States (as defined in section 2 of the Cus-
- 26 toms Trade Facilitation and Enforcement Act of 2012).".

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

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

#### 7 SEC. 108. PAYMENTS IN FOREIGN COUNTRIES; CLAIMS FOR

- 8 REIMBURSEMENT.
- 9 Section 4 of the Act of August 7, 1939 (53 Stat.
- 10 1263, chapter 566; 19 U.S.C. 2079), is amended to read
- 11 as follows:
- 12 "SEC. 4. PAYMENTS IN FOREIGN COUNTRIES; CLAIMS FOR
- 13 REIMBURSEMENT.
- 14 "The provisions of this Act shall not affect payments
- 15 made for the U.S. Customs and Border Protection Agency
- 16 or U.S. Immigration and Customs Enforcement in foreign
- 17 countries, or the right of any officer or employee of such
- 18 Agencies to claim reimbursement for personal funds ex-
- 19 pended in connection with the enforcement of the customs
- 20 and trade laws of the United States (as defined in section
- 21 2 of the Customs Trade Facilitation and Enforcement Act
- 22 of 2012).".
- 23 SEC. 109. CUSTOMS ADMINISTRATION.
- Section 113 of the Customs and Trade Act of 1990
- 25 (19 U.S.C. 2082) is amended to read as follows:

### 1 "SEC. 113. CUSTOMS ADMINISTRATION.

| 2  | "(a) In General.—The Commissioner of U.S. Cus-           |
|----|--|
| 3  | toms and Border Protection and the Director of U.S. Im-  |
| 4  | migration and Customs Enforcement each shall—            |
| 5  | "(1) develop and implement accounting systems            |
| 6  | that accurately determine and report the allocation      |
| 7  | of the personnel and other resources of the U.S.         |
| 8  | Customs and Border Protection Agency and U.S.            |
| 9  | Immigration and Customs Enforcement among the            |
| 10 | various operational functions of each Agency, includ-    |
| 11 | ing merchandise processing and customs and trade         |
| 12 | law enforcement; and                                     |
| 13 | "(2) for fiscal year 2013 and each subsequent            |
| 14 | fiscal year, develop and implement labor distribution    |
| 15 | surveys of major workforce activities within the U.S.    |
| 16 | Customs and Border Protection Agency and U.S.            |
| 17 | Immigration and Customs Enforcement to determine         |
| 18 | the cost of the various operational functions of each    |
| 19 | Agency and the extent to which the costs of one          |
| 20 | Agency are covered by the other Agency.                  |
| 21 | "(b) Survey Reports.—The Commissioner of U.S.            |
| 22 | Customs and Border Protection and the Director of U.S.   |
| 23 | Immigration and Customs Enforcement shall each, not      |
| 24 | later than December 31, 2013, and December 31 of each    |
| 25 | subsequent calendar year, submit to the Committee on Fi- |
| 26 | nance of the Senate and the Committee on Ways and        |

- 1 Means of the House of Representatives a report on the
- 2 results of the surveys implemented under paragraph (2)
- 3 of subsection (a) for the preceding fiscal year.".
- 4 SEC. 110. DESIGNATION OF TRADE OVERSIGHT PER-
- 5 SONNEL.
- 6 Subsection (c) of section 412 of the Homeland Secu-
- 7 rity Act of 2002 (6 U.S.C. 212(c)) is amended to read
- 8 as follows:
- 9 "(c) Designation of Trade Oversight Per-
- 10 SONNEL.—Not later than 90 days after the date of the
- 11 enactment of the Customs Trade Facilitation and En-
- 12 forcement Act of 2012, the Secretary of the Treasury shall
- 13 designate and dedicate not less than 5 full-time equivalent
- 14 personnel to work exclusively with the Deputy Assistant
- 15 Secretary of the Treasury for Tax, Trade, and Tariff Pol-
- 16 icy in the performance and oversight of customs revenue
- 17 functions.".
- 18 SEC. 111. CONSULTATION ON TRADE AND CUSTOMS REV-
- 19 ENUE FUNCTIONS.
- 20 Section 401(c) of the Safety and Accountability for
- 21 Every Port Act (6 U.S.C. 115(c)) is amended—
- 22 (1) in paragraph (1), by striking "on Depart-
- 23 ment policies and actions that have" and inserting
- 24 "not later than 30 days after proposing, and not

| 1  | later than 30 days before finalizing, any Department     |
|----|--|
| 2  | policies, initiatives, or actions that will have"; and   |
| 3  | (2) in paragraph (2)(A), by striking "not later          |
| 4  | than 30 days prior to the finalization of" and insert-   |
| 5  | ing "not later than 60 days before proposing, and        |
| 6  | not later than 60 days before finalizing,".              |
| 7  | SEC. 112. AUTHORIZATION OF APPROPRIATIONS.               |
| 8  | (a) In General.—Section 301 of the Customs Pro-          |
| 9  | cedural Reform and Simplification Act of 1978 (19 U.S.C. |
| 10 | 2075) is amended—  |
| 11 | (1) in subsection (a)—                                   |
| 12 | (A) in paragraph (1)—                                    |
| 13 | (i) by striking "October 1, 1979" and                    |
| 14 | inserting "October 1, 2012"; and                         |
| 15 | (ii) by striking "Department of the                      |
| 16 | Treasury for the United States Customs                   |
| 17 | Service" and inserting "Department of                    |
| 18 | Homeland Security for the U.S. Customs                   |
| 19 | and Border Protection Agency";                           |
| 20 | (B) by striking paragraph (2) and insert-                |
| 21 | ing the following:                                       |
| 22 | "(2) Requirement for authorization.—                     |
| 23 | The authorization of the appropriations for the U.S.     |
| 24 | Customs and Border Protection Agency for each fis-       |
| 25 | cal year after fiscal year 2012 shall specify the        |

| 1  | amount authorized for the fiscal year for the salaries |
|----|--|
| 2  | and expenses of the Agency in conducting commer-       |
| 3  | cial operations."; and                                 |
| 4  | (C) by striking paragraph (3);                         |
| 5  | (2) by striking subsections (b), (c), and (d) and      |
| 6  | inserting the following:                               |
| 7  | "(b) Authorization of Appropriations.—                 |
| 8  | "(1) In general.—There are authorized to be            |
| 9  | appropriated for the salaries and expenses of the      |
| 10 | U.S. Customs and Border Protection Agency that         |
| 11 | are incurred in commercial operations—                 |
| 12 | "(A) not less than $$1,800,000,000$ for fis-           |
| 13 | cal year 2013;   |
| 14 | "(B) not less than $$1,817,000,000$ for fis-           |
| 15 | cal year 2014; and                                     |
| 16 | "(C) not less than $$1,830,000,000$ for fis-           |
| 17 | cal year 2015.   |
| 18 | "(2) Customs user fee account.—The mon-                |
| 19 | ies authorized to be appropriated pursuant to para-    |
| 20 | graph (1) for any fiscal year, except for such sums    |
| 21 | as may be necessary for the salaries and expenses of   |
| 22 | the U.S. Customs and Border Protection Agency          |
| 23 | that are incurred in connection with the processing    |
| 24 | of merchandise that is exempt from the fees imposed    |
| 25 | pursuant to section 13031(a) (9) and (10) of the       |

| 1  | Consolidated Omnibus Budget Reconciliation Act of          |
|----|--|
| 2  | 1985 (19 U.S.C. 58c(a) (9) and (10)), shall be ap-         |
| 3  | propriated from the Customs User Fee Account.              |
| 4  | "(c) Mandatory 10-Day Deferment.—No part of                |
| 5  | the funds appropriated under subsection (a) for any fiscal |
| 6  | year may be used to provide less time for the collection   |
| 7  | of estimated duties than the 10-day deferment procedure    |
| 8  | in effect on January 1, 1981.                              |
| 9  | "(d) Overtime Pay Limitations; Waiver.—No                  |
| 10 | part of the funds appropriated pursuant to subsection (a)  |
| 11 | for any fiscal year may be used for administrative ex-     |
| 12 | penses to pay any customs officer overtime pay in an       |
| 13 | amount exceeding \$35,000 unless the Secretary of Home-    |
| 14 | land Security determines on an individual basis that pay-  |
| 15 | ment of overtime pay to such officer in an amount exceed-  |
| 16 | ing \$35,000 is necessary for national security purposes.  |
| 17 | to prevent excessive costs, or to meet emergency require-  |
| 18 | ments of the Agency.";                                     |
| 19 | (3) in subsection (e)—                                     |
| 20 | (A) by striking "October 1, 1982" and in-                  |
| 21 | serting "October 1, 2012";                                 |
| 22 | (B) by striking "Department of the Treas-                  |
| 23 | ury for salaries of the United States Customs              |
| 24 | Service" and inserting "Department of Home.                |

1 land Security for salaries of the U.S. Customs 2 and Border Protection Agency"; and (C) by striking "to reflect" and all that 3 follows and inserting "to reflect any adjustment 4 5 in rates of basic pay made in accordance with 6 subchapter I of chapter 53 of title 5, United 7 States Code.": 8 (4) by striking subsections (f) and (g) and in-9 serting the following: 10 "(f) Use of Savings Resulting From Adminis-TRATIVE CONSOLIDATIONS.—If savings in salaries and ex-11 12 penses result from the consolidation of administrative functions within the U.S. Customs and Border Protection Agency, the Commissioner of U.S. Customs and Border Protection shall apply the savings, to the extent the savings are not needed to meet emergency requirements of the Agency, to strengthening the commercial operations 18 of the Agency by increasing the number of personnel dedicated to administering such commercial operations. 19 "(g) Allocation of Resources; Report to Con-20 21 GRESSIONAL COMMITTEES.—The Commissioner of U.S. 22 Customs and Border Protection shall notify the Com-23 mittee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives at least 180 days prior to taking any action that would—

1 "(1) result in any significant reduction in force 2 of employees of the U.S. Customs and Border Pro-3 tection Agency other than by means of attrition; "(2) result in any significant reduction in hours 4 5 of operation or services rendered at any office of the 6 U.S. Customs and Border Protection Agency or any 7 United States port of entry; "(3) eliminate or relocate any office of the U.S. 8 9 Customs and Border Protection Agency; "(4) eliminate any United States port of entry; 10 11 or 12 "(5) significantly reduce the number of employ-13 ees assigned to any office or any function of the 14 U.S. Customs and Border Protection Agency."; and 15 (5) by adding at the end the following: 16 "(i) DEFINITION.—In this section, the term 'commercial operations' has the meaning given such term in section 2 of the Customs Trade Facilitation and Enforcement 18 Act of 2012.". 19 20 (b) RESOURCE OPTIMIZATION MODEL.—Subsection 21 (h) of section 301 of the Customs Procedural Reform and 22 Simplification Act of 1978 is amended by striking "Re-23 source Allocation Model" each place it appears in the text and in the heading and inserting "Resource Optimization" Model". 25

1 (c) Conforming Amendment.—Subsection (c) of

2 section 5 of the Act of February 13, 1911 (19 U.S.C.

3 267(c), is amended to read as follows:

"(c) Limitations.—

"(1) FISCAL YEAR CAP.—The aggregate of overtime pay under subsection (a) of this section (including commuting compensation under subsection (a)(2)(B) of this section) and premium pay under subsection (b) of this section that a customs officer may be paid in any fiscal year may not exceed \$35,000 unless the Secretary of Homeland Security determines on an individual basis that payment of overtime pay to such officer in an amount exceeding \$35,000 is necessary for national security purposes, to prevent excessive costs, or to meet emergency requirements of the Agency.

"(2) EXCLUSIVITY OF PAY UNDER THIS SECTION.—A customs officer who receives overtime pay under subsection (a) of this section, or premium pay under subsection (b) of this section for time worked, may not receive pay or other compensation for that work under any other provision of law.".

## 1 Subtitle B—Investigative Functions

| 2  | SEC. 121. SEPARATE BUDGET FOR U.S. IMMIGRATION AND        |  |
|----|---|--|
| 3  | CUSTOMS ENFORCEMENT.                                      |  |
| 4  | The President shall include in each budget trans-         |  |
| 5  | mitted to Congress under section 1105 of title 31, United |  |
| 6  | States Code, a separate budget request of U.S. Immigra-   |  |
| 7  | 7 tion and Customs Enforcement for the enforcement of     |  |
| 8  | 3 customs and trade laws of the United States.            |  |
| 9  | SEC. 122. AUTHORIZATION OF APPROPRIATIONS.                |  |
| 10 | Title III of the Customs Procedural Reform and Sim-       |  |
| 11 | plification Act of 1978 (19 U.S.C. 2075) is amended by    |  |
| 12 | inserting after section 301 the following:                |  |
| 13 | "SEC. 302. AUTHORIZATION OF APPROPRIATIONS FOR CER-       |  |
| 14 | TAIN CUSTOMS ENFORCEMENT ACTIVITIES.                      |  |
| 15 | "(a) In General.—   |  |
| 16 | "(1) FISCAL YEARS BEGINNING ON OR AFTER                   |  |
| 17 | OCTOBER 1, 2012.—For the fiscal year beginning Oc-        |  |
| 18 | tober 1, 2012, and each fiscal year thereafter, there     |  |
| 19 | are authorized to be appropriated to the U.S. Immi-       |  |
| 20 | gration and Customs Enforcement of the Depart-            |  |
| 21 | ment of Homeland Security for the enforcement of          |  |
| 22 | the customs and trade laws of the United States           |  |
| 23 | only such sums as may be authorized by law.               |  |
| 24 | "(2) Specification of amounts.—The au-                    |  |
| 25 | thorization of the appropriations for the U.S. Immi-      |  |

- 1 gration and Customs Enforcement for each fiscal
- 2 year after fiscal year 2012 shall specify the amount
- 3 authorized for the fiscal year for the salaries and ex-
- 4 penses of U.S. Immigration and Customs Enforce-
- 5 ment for the enforcement of the customs and trade
- 6 laws of the United States.
- 7 "(b) AUTHORIZATION OF APPROPRIATIONS.—There
- 8 are authorized to be appropriated for the salaries and ex-
- 9 penses of the U.S. Immigration and Customs Enforcement
- 10 that are incurred in enforcement of the customs and trade
- 11 laws of the United States—
- 12 "(1) not less than \$86,000,000 for fiscal year
- 13 2013;
- 14 "(2) not less than \$88,150,000 for fiscal year
- 15 2014; and
- 16 "(3) not less than \$90,200,000 for fiscal year
- 17 2015.
- 18 "(c) Definition.—In this section, the term 'customs
- 19 and trade laws of the United States' has the meaning
- 20 given such term in section 2 of the Customs Trade Facili-
- 21 tation and Enforcement Act of 2012.".

## 22 Subtitle C—Joint Strategic Plan

- 23 SEC. 131. JOINT STRATEGIC PLAN.
- 24 (a) IN GENERAL.—Not later than June 30, 2013,
- 25 and every 2 years thereafter, the Commissioner of U.S.

- 1 Customs and Border Protection and the Director of U.S.
- 2 Immigration and Customs Enforcement shall jointly de-
- 3 velop and submit to the Committee on Finance of the Sen-
- 4 ate and the Committee on Ways and Means of the House
- 5 of Representatives, a Joint Strategic Plan.
- 6 (b) Contents.—The Joint Strategic Plan required
- 7 under this section shall be comprised of a comprehensive
- 8 multi-year plan for enforcing the customs and trade laws
- 9 of the United States and for facilitating the international
- 10 trade of the United States, and shall include—
- 11 (1) a summary of actions taken to date to bet-
- ter enforce the customs and trade laws of the United
- 13 States and to better facilitate the international trade
- of the United States, including a description and
- analysis of specific performance measures to evalu-
- ate the progress of the U.S. Customs and Border
- 17 Protection Agency and U.S. Immigration and Cus-
- toms Enforcement in meeting each such responsi-
- bility;
- 20 (2) a statement of objectives and plans for fur-
- 21 ther improving the enforcement of the customs and
- trade laws of the United States and the facilitation
- of the international trade of the United States;
- 24 (3) a specific identification of the priority trade
- issues described in paragraph (3)(B)(ii) of section

- 2(d) of the Act of March 3, 1927 (44 Stat. 1381,
  chapter 348; 19 U.S.C. 2072(d)), as added by section 211(a) of this Act;
  - (4) a description of efforts made to improve consultation and coordination among Federal departments and agencies, and in particular between the U.S. Customs and Border Protection Agency and U.S. Immigration and Customs Enforcement, regarding the enforcement of the customs and trade laws of the United States and the facilitation of the international trade of the United States;
    - (5) a description of the training that has occurred to date within the U.S. Customs and Border Protection Agency and U.S. Immigration and Customs Enforcement to improve such enforcement and facilitation, including training under section 217 of this Act;
    - (6) a specific identification of any domestic or international best practices that may further improve such enforcement and facilitation; and
  - (7) any legislative recommendations to further improve such enforcement of the customs and trade laws of the United States or facilitation.
- 24 (c) Consultations.—

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| 1  | (1) In General.—In developing the Joint               |
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| 2  | Strategic Plan required under this section, the Com-  |
| 3  | missioner and the Director shall consult with—        |
| 4  | (A) appropriate officials from the relevant           |
| 5  | Federal departments and agencies, including—          |
| 6  | (i) the Department of the Treasury;                   |
| 7  | (ii) the Department of Agriculture;                   |
| 8  | (iii) the Department of Commerce;                     |
| 9  | (iv) the Department of Justice;                       |
| 10 | (v) the Department of the Interior;                   |
| 11 | (vi) the Department of Health and                     |
| 12 | Human Services;                                       |
| 13 | (vii) the Food and Drug Administra-                   |
| 14 | tion;   |
| 15 | (viii) the Consumer Product Safety                    |
| 16 | Commission; and                                       |
| 17 | (ix) the Office of the United States                  |
| 18 | Trade Representative; and                             |
| 19 | (B) the Commercial Customs Operations                 |
| 20 | Advisory Committee (established in section 202        |
| 21 | of this Act).   |
| 22 | (2) Other consultations.—In developing                |
| 23 | the Joint Strategic Plan required under this section, |
| 24 | the Commissioner and the Director shall seek to       |
| 25 | consult with—   |

| 1  | (A) appropriate officials from relevant for-             |
|----|--|
| 2  | eign law enforcement agencies and international          |
| 3  | organizations, including the World Customs Or-           |
| 4  | ganization; and  |
| 5  | (B) interested parties in the private sector.            |
| 6  | TITLE II—CUSTOMS FACILITA-                               |
| 7  | TION, TRADE ENFORCEMENT,                                 |
| 8  | AND TRANSPARENCY   |
| 9  | Subtitle A—Customs Facilitation                          |
| 10 | and Transparency   |
| 11 | SEC. 201. CONSULTATIONS WITH RESPECT TO MUTUAL           |
| 12 | RECOGNITION AGREEMENTS.                                  |
| 13 | The Secretary of Homeland Security, with respect to      |
| 14 | any proposed Mutual Recognition Arrangement or similar   |
| 15 | agreement between the United States and a foreign gov-   |
| 16 | ernment providing for mutual recognition of supply chain |
| 17 | security programs and customs revenue functions, shall—  |
| 18 | (1) consult, not later than 30 days before initi-        |
| 19 | ating negotiations to enter into any such agreement,     |
| 20 | with the Committee on Finance of the Senate and          |
| 21 | the Committee on Ways and Means of the House of          |
| 22 | Representatives; and                                     |
| 23 | (2) consult, not later than 30 days before enter-        |
| 24 | ing into any such agreement, with the Committee on       |

| 1  | Finance of the Senate and the Committee on Ways           |
|----|---|
| 2  | and Means of the House of Representatives.                |
| 3  | SEC. 202. COMMERCIAL CUSTOMS OPERATIONS ADVISORY          |
| 4  | COMMITTEE.  |
| 5  | (a) Establishment.—Not later than 60 days after           |
| 6  | the date of enactment of this Act, the Secretary of the   |
| 7  | Treasury and the Secretary of Homeland Security shall     |
| 8  | jointly establish a Commercial Customs Operations Advi-   |
| 9  | sory Committee (in this section referred to as the "Advi- |
| 10 | sory Committee").   |
| 11 | (b) Membership.—  |
| 12 | (1) In General.—The Advisory Committee                    |
| 13 | shall be comprised of—                                    |
| 14 | (A) 20 individuals appointed under para-                  |
| 15 | graph (2);  |
| 16 | (B) the Assistant Secretary for Tax Policy                |
| 17 | of the Department of the Treasury and the As-             |
| 18 | sistant Secretary of Policy and Planning of the           |
| 19 | Department of Homeland Security, who shall                |
| 20 | jointly co-chair meetings of the Advisory Com-            |
| 21 | mittee; and   |
| 22 | (C) the Commissioner of U.S. Customs                      |
| 23 | and Border Protection and the Director of U.S             |
| 24 | Immigration and Customs Enforcement, who                  |

| 1  | shall serve as deputy co-chairs of meetings of     |
|----|--|
| 2  | the Advisory Committee.                            |
| 3  | (2) Appointment.—                                  |
| 4  | (A) IN GENERAL.—The Secretary of the               |
| 5  | Treasury and the Secretary of Homeland Secu-       |
| 6  | rity shall jointly appoint 20 individuals from     |
| 7  | the private sector to the Advisory Committee.      |
| 8  | (B) Requirements.—In making appoint-               |
| 9  | ments under subparagraph (A), the Secretary        |
| 10 | of the Treasury and the Secretary of Homeland      |
| 11 | Security shall appoint members—                    |
| 12 | (i) to ensure that the membership of               |
| 13 | the Advisory Committee is representative           |
| 14 | of the individuals and firms affected by the       |
| 15 | commercial operations of the U.S. Customs          |
| 16 | and Border Protection Agency; and                  |
| 17 | (ii) to ensure that a majority of the              |
| 18 | individuals are not members of the same            |
| 19 | political party.                                   |
| 20 | (c) Duties.—The Advisory Committee established     |
| 21 | under subsection (a) shall—                        |
| 22 | (1) advise the Secretary of the Treasury and       |
| 23 | the Secretary of Homeland Security on matters in-  |
| 24 | volving the commercial operations of the U.S. Cus- |
| 25 | toms and Border Protection Agency and U.S. Immi-   |

- 1 gration and Customs Enforcement, including advis-
- 2 ing with respect to significant changes that are pro-
- 3 posed with respect to agency regulations, policies, or
- 4 practices;
- 5 (2) provide recommendations to the Secretary
- of the Treasury and the Secretary of Homeland Se-
- 7 curity on improvements to the commercial operations
- 8 of the U.S. Customs and Border Protection Agency
- 9 and U.S. Immigration and Customs Enforcement;
- 10 and
- 11 (3) perform such other functions relating to the
- commercial operations of the U.S. Customs and Bor-
- der Protection Agency and U.S. Immigration and
- 14 Customs Enforcement as prescribed by law or as the
- 15 Secretary of the Treasury and the Secretary of
- 16 Homeland Security jointly direct.
- 17 (d) Meetings.—The Advisory Committee shall meet
- 18 at the call of the Secretary of the Treasury and the Sec-
- 19 retary of Homeland Security.
- 20 (e) Annual Report.—Not later than December 31
- 21 of each calendar year, the Advisory Committee shall sub-
- 22 mit to the Committee on Finance of the Senate and the
- 23 Committee on Ways and Means of the House of Rep-
- 24 resentatives a report that—

1 (1) describes the activities of the Advisory Com-2 mittee during the preceding fiscal year; and 3 (2) sets forth any recommendations of the Advi-4 sory Committee regarding the commercial operations 5 of the U.S. Customs and Border Protection Agency 6 and U.S. Immigration and Customs Enforcement. 7 (f) TERMINATION.—Section 14(a)(2)(B) of the Fed-8 eral Advisory Committee Act (5 U.S.C. App.; relating to the termination of advisory committees) shall not apply 10 to the Advisory Committee. 11 (g) Conforming Amendment.— 12 (1) IN GENERAL.—Effective on the date on 13 which the Advisory Committee is established under 14 subsection (a), section 9503(c) of the Omnibus 15 Budget Reconciliation Act of 1987 (19 U.S.C. 2071) 16 note) is repealed. 17 (2) Reference.—Any reference in law to the 18 Advisory Committee on Commercial Operations of 19 the United States Customs Service established under 20 section 9503(c) of the Omnibus Budget Reconcili-21 ation Act of 1987 (19 U.S.C. 2071 note) made on 22 or after the date on which the Advisory Committee

is established under subsection (a), shall be deemed

a reference to the Commercial Customs Operations

23

```
1
        Advisory Committee established under subsection
 2
        (a).
   SEC. 203. AUTOMATED COMMERCIAL ENVIRONMENT COM-
 4
                PUTER SYSTEM.
 5
        (a) Funding.—Section 13031(f)(5) of the Consoli-
 6
   dated Omnibus Budget Reconciliation Act of 1985 (19
 7
   U.S.C. 58c(f)(5)) is amended—
 8
             (1) in subparagraph (A)—
 9
                 (A) by striking "2003, 2004, and 2005"
             and inserting "2013, 2014, and 2015"; and
10
11
                 (B) by striking "$350,000,000" and in-
12
            serting "$700,242,000"; and
13
             (2) in subparagraph (B)—
14
                 (A) by striking "2003 through 2005" and
15
            inserting "2013 through 2015";
                 (B) by striking "such amounts as are
16
            available in that Account" and inserting "not
17
18
            less than $138,794,000"; and
19
                 (C) by striking "for the development" and
20
            inserting "to complete the development".
21
        (b) Report.—Section 311(b)(3) of the Customs Bor-
22
   der Security Act of 2002 (19 U.S.C. 2075 note) is amend-
23
   ed to read as follows:
             "(3) Report.—
24
```

"(A) IN GENERAL.—Not later than De-1 2 cember 31, 2012, the Commissioner of U.S. 3 Customs and Border Protection shall submit to 4 the Committee on Appropriations and the Committee on Finance of the Senate and the Com-6 mittee on Appropriations and the Committee on 7 Ways and Means of the House of Representa-8 tives a report specifying— 9 "(i) the plans of the U.S. Customs 10 and Border Protection Agency and dead-11 lines for incorporating all cargo release 12 data elements into the Automated Com-13 mercial Environment computer system not 14 later than September 30, 2015, to conform 15 with the admissibility criteria of agencies 16 participating in the International Trade 17 Data System identified pursuant to section 18 411(d)(4)(A)(iii) of the Tariff Act of 1930; 19 "(ii) the Agency's remaining priorities 20 for incorporating entry summary data ele-21 ments, cargo manifest data elements, cargo 22 financial data elements, and export ele-23 ments into the Automated Commercial En-24 vironment computer system; and

"(iii) the Agency's objectives, plans, 1 2 and deadlines for implementing the priorities identified under clause (ii) not later 3 than September 30, 2015. "(B) UPDATE OF REPORTS.—Not later 6 than December 31, 2014, and September 30, 7 2015, the Commissioner shall submit to the 8 Committee on Appropriations and the Com-9 mittee on Finance of the Senate and the Com-10 mittee on Appropriations and the Committee on 11 Ways and Means of the House of Representa-12 tives an updated report addressing each of the 13 matters referred to in subparagraph (A).". 14 (c) Government Accountability Office Re-15 PORT.—Not later than December 31, 2015, the Comptroller General of the United States shall submit to the 16 17 Committee on Appropriations and the Committee on Fi-18 nance of the Senate and the Committee on Appropriations 19 and the Committee on Ways and Means of the House of 20 Representatives a report— 21 (1) evaluating the cost and effectiveness of the 22 efforts of the U.S. Customs and Border Protection 23 Agency to complete the development, establishment, 24 and implementation of the Automated Commercial

Environment computer system;

1 (2) assessing the extent to which any additional
2 functionality may be added into the Automated
3 Commercial Environment computer system at a rea4 sonable cost; and
5 (3) assessing the potential cost savings to the

United States Government and importers and exporters and the potential benefits to enforcement of the customs and trade laws of the United States if the elements identified in clauses (i) and (ii) of section 311(b)(3)(A) of the Customs Border Security Act of 2002, as amended by subsection (b) of this section, are implemented.

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

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

6

7

8

9

10

11

12

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

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

| 1  | and does not use any other system for such         |
|----|--|
| 2  | purposes.";  |
| 3  | (2) by redesignating paragraphs (4) through        |
| 4  | (7) as paragraphs (5) through (8), respectively;   |
| 5  | (3) by inserting after paragraph (3) the fol-      |
| 6  | lowing:  |
| 7  | "(4) Information technology infrastruc-            |
| 8  | TURE.—The head of each Federal agency that re-     |
| 9  | quires documentation for clearing or licensing the |
| 10 | importation and exportation of cargo shall—        |
| 11 | "(A) develop and maintain the necessary            |
| 12 | information technology infrastructure to sup-      |
| 13 | port the operation of the ITDS;                    |
| 14 | "(B) not later than March 31, 2013, enter          |
| 15 | into a memorandum of understanding, or take        |
| 16 | such other action as is necessary, to provide for  |
| 17 | the information sharing between the agency and     |
| 18 | the U.S. Customs and Border Protection Agen-       |
| 19 | cy necessary for the operation and maintenance     |
| 20 | of the ITDS; and                                   |
| 21 | "(C) not later than March 31, 2013, iden-          |
| 22 | tify and transmit to the Commissioner of U.S.      |
| 23 | Customs and Border Protection the admissi-         |
| 24 | bility criteria and data elements required by the  |
| 25 | agency to authorize the release of cargo by the    |

| 1  | U.S. Customs and Border Protection Agency                |  |  |
|----|--|--|--|
| 2  | for incorporation into the operational                   |  |  |
| 3  | functionality of the Automated Commercial En-            |  |  |
| 4  | vironment computer system.";                             |  |  |
| 5  | (4) in paragraph (5), as redesignated, by stri           |  |  |
| 6  | ing "each fiscal year" and inserting "each of the fis    |  |  |
| 7  | cal years 2010 through 2013"; and                        |  |  |
| 8  | (5) in paragraph (8), as redesignated, by stril          |  |  |
| 9  | ing "section 9503(c) of the Omnibus Budget Rec           |  |  |
| 10 | onciliation Act of 1987 (19 U.S.C. 2071 note)" and       |  |  |
| 11 | inserting "section 202 of the Customs Trade Facili-      |  |  |
| 12 | tation and Enforcement Act of 2012".                     |  |  |
| 13 | Subtitle B—Trade Enforcement                             |  |  |
| 14 | CHAPTER 1—COMMERCIAL RISK                                |  |  |
| 15 | ASSESSMENT TARGETING                                     |  |  |
| 16 | SEC. 211. COMMERCIAL TARGETING DIVISION AND NA           |  |  |
| 17 | TIONAL TARGETING AND ANALYSIS GROUPS.                    |  |  |
| 18 | (a) In General.—Section 2(d) of the Act of March         |  |  |
| 19 | 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 2072(d)), |  |  |
| 20 | as amended by section 102(d) of this Act, is further     |  |  |
| 21 | amended by adding at the end the following:              |  |  |
| 22 | "(3) Commercial targeting division and                   |  |  |
| 23 | NATIONAL TARGETING AND ANALYSIS GROUPS.—                 |  |  |
| 24 | "(A) Establishment of commercial                         |  |  |
| 25 | TARGETING DIVISION.—                                     |  |  |

| 1  | "(i) In General.—The Secretary of           |
|----|---|
| 2  | Homeland Security shall establish and       |
| 3  | maintain within the Office of International |
| 4  | Trade a Commercial Targeting Division.      |
| 5  | "(ii) Composition.—The Commercial           |
| 6  | Targeting Division shall be composed of—    |
| 7  | "(I) headquarters personnel led             |
| 8  | by an Executive Director, who shall         |
| 9  | report to the Assistant Commissioner        |
| 10 | of the Office of International Trade;       |
| 11 | and   |
| 12 | "(II) individual National Tar-              |
| 13 | geting and Analysis Groups, each led        |
| 14 | by a Director who shall report to the       |
| 15 | Executive Director of the Commercial        |
| 16 | Targeting Division.                         |
| 17 | "(iii) Duties.—The Commercial Tar-          |
| 18 | geting Division shall be dedicated—         |
| 19 | "(I) to the development and con-            |
| 20 | duct of commercial risk assessment          |
| 21 | targeting with respect to cargo des-        |
| 22 | tined for the United States in accord-      |
| 23 | ance with subparagraph (C); and             |
| 24 | "(II) to issuing Trade Alerts de-           |
| 25 | scribed in subparagraph (D).                |

| 1  | "(B) National targeting and analysis      |
|----|---|
| 2  | GROUPS.—                                  |
| 3  | "(i) In General.—A National Tar-          |
| 4  | geting and Analysis Group referred to in  |
| 5  | subparagraph (A)(ii)(II) shall, at a min- |
| 6  | imum, be established for each priority    |
| 7  | trade issue described in clause (ii).     |
| 8  | "(ii) Priority trade issues.—             |
| 9  | "(I) In general.—The priority             |
| 10 | trade issues described in this clause     |
| 11 | are the following:                        |
| 12 | "(aa) Agriculture programs.               |
| 13 | "(bb) Antidumping and                     |
| 14 | countervailing duties.                    |
| 15 | "(ee) Import safety.                      |
| 16 | "(dd) Intellectual property               |
| 17 | rights.                                   |
| 18 | "(ee) Penalties.                          |
| 19 | "(ff) Revenue.                            |
| 20 | "(gg) Textiles.                           |
| 21 | "(hh) Trade agreements.                   |
| 22 | "(II) Modification.—The Com-              |
| 23 | missioner is authorized to establish      |
| 24 | new priority trade issues and elimi-      |
| 25 | nate, consolidate, or otherwise modify    |

| 1  | the priority trade issues described in |
|----|--|
| 2  | this paragraph if the Commissioner—    |
| 3  | "(aa) determines it nec-               |
| 4  | essary and appropriate to do so;       |
| 5  | and                                    |
| 6  | "(bb) submits to the Com-              |
| 7  | mittee on Finance of the Senate        |
| 8  | and the Committee on Ways and          |
| 9  | Means of the House of Rep-             |
| 10 | resentatives a summary of the          |
| 11 | proposed changes to the priority       |
| 12 | trade issues not later than 60         |
| 13 | days before such changes are to        |
| 14 | take effect.                           |
| 15 | "(iii) Duties.—The duties of each      |
| 16 | National Targeting and Analysis Group  |
| 17 | shall include—                         |
| 18 | "(I) directing the trade enforce-      |
| 19 | ment and compliance assessment ac-     |
| 20 | tivities of the U.S. Customs and Bor-  |
| 21 | der Protection Agency that relate to   |
| 22 | the Group's priority trade issue;      |
| 23 | "(II) facilitating, promoting, and     |
| 24 | coordinating cooperation and the ex-   |
| 25 | change of information between the      |

| 1  | U.S. Customs and Border Protection    |
|----|---------------------------------------|
| 2  | Agency, U.S. Immigration and Cus-     |
| 3  | toms Enforcement, and other relevant  |
| 4  | Federal departments and agencies re-  |
| 5  | garding the Group's priority trade    |
| 6  | issue; and                            |
| 7  | "(III) serving as the primary liai-   |
| 8  | son between the U.S. Customs and      |
| 9  | Border Protection Agency and the      |
| 10 | public regarding United States Gov-   |
| 11 | ernment activities regarding the      |
| 12 | Group's priority trade issue, includ- |
| 13 | ing—                                  |
| 14 | "(aa) providing for receipt           |
| 15 | and transmission to the appro-        |
| 16 | priate U.S. Customs and Border        |
| 17 | Protection Agency office of alle-     |
| 18 | gations from interested parties in    |
| 19 | the private sector of violations of   |
| 20 | customs and trade laws of the         |
| 21 | United States of merchandise re-      |
| 22 | lating to the priority trade issue;   |
| 23 | "(bb) obtaining information           |
| 24 | from the appropriate U.S. Cus-        |
| 25 | toms and Border Protection            |

| 1  | Agency office on the status of                |
|----|---|
| 2  | any activities resulting from the             |
| 3  | submission of any such allega-                |
| 4  | tion, including any decision not              |
| 5  | to pursue the allegation, and pro-            |
| 6  | viding any such information to                |
| 7  | each interested party in the pri-             |
| 8  | vate sector that submitted the al-            |
| 9  | legation every 90 days after the              |
| 10 | allegation was received by the                |
| 11 | U.S. Customs and Border Pro-                  |
| 12 | tection Agency; and                           |
| 13 | "(cc) notifying on a timely                   |
| 14 | basis each interested party in the            |
| 15 | private sector that submitted                 |
| 16 | such allegation of any civil or               |
| 17 | criminal actions taken by the                 |
| 18 | U.S. Customs and Border Pro-                  |
| 19 | tection Agency or other Federal               |
| 20 | department or agency resulting                |
| 21 | from the allegation.                          |
| 22 | "(C) COMMERCIAL RISK ASSESSMENT TAR-          |
| 23 | GETING.—In carrying out its duties with re-   |
| 24 | spect to commercial risk assessment targeting |
| 25 | the Commercial Targeting Division shall—      |

| 1  | "(i) establish targeted risk assessment     |
|----|---|
| 2  | methodologies and standards—                |
| 3  | "(I) for evaluating the risk that           |
| 4  | cargo destined for the United States        |
| 5  | may violate the customs and trade           |
| 6  | laws of the United States, particularly     |
| 7  | those laws applicable to merchandise        |
| 8  | subject to the priority trade issues de-    |
| 9  | scribed in subparagraph (B)(ii); and        |
| 10 | "(II) for issuing, as appropriate,          |
| 11 | Trade Alerts described in subpara-          |
| 12 | graph (D); and                              |
| 13 | "(ii) to the extent practicable and oth-    |
| 14 | erwise authorized by law, use information   |
| 15 | available from the Automated Commercial     |
| 16 | System, the Automated Commercial Envi-      |
| 17 | ronment computer system, the Automated      |
| 18 | Targeting System, the Automated Export      |
| 19 | System, the International Trade Data Sys-   |
| 20 | tem, and the Treasury Enforcement Com-      |
| 21 | munications System, and any successor       |
| 22 | systems, to administer the methodologies    |
| 23 | and standards established under clause (i). |
| 24 | "(D) Trade alerts.—                         |

| 1  | "(i) Issuance.—Based upon the ap-            |
|----|--|
| 2  | plication of the targeted risk assessment    |
| 3  | methodologies and standards established      |
| 4  | under subparagraph (C), the Executive Di-    |
| 5  | rector of the Commercial Targeting Divi-     |
| 6  | sion and the Directors of the National       |
| 7  | Targeting and Analysis Groups may issue      |
| 8  | Trade Alerts to directors of United States   |
| 9  | ports of entry directing further inspection, |
| 10 | or physical examination or testing, of spe-  |
| 11 | cific merchandise to ensure compliance       |
| 12 | with all applicable customs and trade laws   |
| 13 | and regulations administered by the U.S.     |
| 14 | Customs and Border Protection Agency.        |
| 15 | "(ii) Determinations not to im-              |
| 16 | PLEMENT TRADE ALERTS.—The director           |
| 17 | of a United States port of entry may deter-  |
| 18 | mine not to conduct further inspections, or  |
| 19 | physical examination or testing, pursuant    |
| 20 | to a Trade Alert issued under clause (i)     |
| 21 | if—  |
| 22 | "(I) the director finds that such            |
| 23 | a determination is justified by port se-     |
| 24 | curity interests; and                        |

| 1  | "(II) notifies the Assistant Com-           |
|----|---|
| 2  | missioner of the Office of Field Oper-      |
| 3  | ations of the U.S. Customs and Bor-         |
| 4  | der Protection Agency of the deter-         |
| 5  | mination and the reasons for the de-        |
| 6  | termination not later than 48 hours         |
| 7  | after making the determination.             |
| 8  | "(iii) Summary of determinations            |
| 9  | NOT TO IMPLEMENT.—The Assistant Com-        |
| 10 | missioner of the Office of Field Operations |
| 11 | of the U.S. Customs and Border Protec-      |
| 12 | tion Agency shall—                          |
| 13 | "(I) compile an annual public               |
| 14 | summary of all determinations by di-        |
| 15 | rectors of United States ports of entry     |
| 16 | under clause (ii) and the reasons for       |
| 17 | those determinations; and                   |
| 18 | "(II) submit the summary to the             |
| 19 | Committee on Finance of the Senate          |
| 20 | and the Committee on Ways and               |
| 21 | Means of the House of Representa-           |
| 22 | tives not later than December 31 of         |
| 23 | each year.                                  |
| 24 | "(iv) Inspection defined.—In this           |
| 25 | subparagraph, the term 'inspection' means   |

| 1  | the comprehensive evaluation process used           |
|----|---|
| 2  | by the U.S. Customs and Border Protec-              |
| 3  | tion Agency, other than physical examina-           |
| 4  | tion or testing, to permit the entry of mer-        |
| 5  | chandise into the United States, or the             |
| 6  | clearance of merchandise for transpor-              |
| 7  | tation in bond through the United States,           |
| 8  | for purposes of—                                    |
| 9  | "(I) assessing duties;                              |
| 10 | "(II) identifying restricted or                     |
| 11 | prohibited items; and                               |
| 12 | "(III) ensuring compliance with                     |
| 13 | all applicable customs and trade laws               |
| 14 | and regulations administered by the                 |
| 15 | Agency.".   |
| 16 | (b) Use of Trade Data for Commercial En-            |
| 17 | FORCEMENT PURPOSES.—Section 343(a) of the Trade Act |
| 18 | of 2002 (19 U.S.C. 2071 note) is amended—           |
| 19 | (1) in the first sentence of paragraph (2), by      |
| 20 | inserting "and to carry out commercial risk assess- |
| 21 | ment targeting (as described in 2(d)(3)(C) of the   |
| 22 | Act of March 3, 1927 (44 Stat. 1381, chapter 348;   |
| 23 | 19 U.S.C. 2072(d)))" after "to ensure cargo safety  |
| 24 | and security"; and                                  |
| 25 | (2) in paragraph (3)—                               |

| 1  | (A) by striking subparagraph (F); and                   |
|----|---|
| 2  | (B) by redesignating subparagraphs (G)                  |
| 3  | through (L) as subparagraphs (F) through (K)            |
| 4  | SEC. 212. CENTERS OF EXCELLENCE AND EXPERTISE.          |
| 5  | Section 2(d) of the Act of March 3, 1927 (44 Stat       |
| 6  | 1381, chapter 348; 19 U.S.C. 2072(d)), as amended by    |
| 7  | sections 102(d) and 211 of this Act, is further amended |
| 8  | by adding at the end the following:                     |
| 9  | "(4) Centers of excellence and exper-                   |
| 10 | TISE.—  |
| 11 | "(A) ESTABLISHMENT.—The Secretary of                    |
| 12 | Homeland Security is authorized to establish            |
| 13 | and maintain within the Office of International         |
| 14 | Trade Centers of Excellence and Expertise.              |
| 15 | "(B) Composition.—Each Center of Ex-                    |
| 16 | cellence and Expertise shall be composed of             |
| 17 | headquarters and field personnel of the U.S             |
| 18 | Customs and Border Protection Agency led by             |
| 19 | an Executive Director, who shall report to the          |
| 20 | Assistant Commissioner of the Office of Inter-          |
| 21 | national Trade.   |
| 22 | "(C) DUTIES.—Each Center of Excellence                  |
| 23 | and Expertise shall be dedicated—                       |
| 24 | "(i) to facilitating legitimate trade                   |
| 25 | through increasing specific industry knowl-             |

| 1  | edge and uniformity of cargo clearance         |
|----|--|
| 2  | procedures;                                    |
| 3  | "(ii) to improving enforcement efforts         |
| 4  | of priority trade issues described in para-    |
| 5  | graph (3)(B)(ii) in specific industry sectors  |
| 6  | through application of targeting informa-      |
| 7  | tion from the Commercial Targeting Divi-       |
| 8  | sion established under paragraph (3)(A)        |
| 9  | and from other means of verifications;         |
| 10 | "(iii) to developing and implementing          |
| 11 | measurable benefits to the trade commu-        |
| 12 | nity;  |
| 13 | "(iv) to fostering partnerships                |
| 14 | through the expansion of trade programs        |
| 15 | such as Importer Self Assessment program       |
| 16 | and other trusted partner programs;            |
| 17 | "(v) to developing applicable perform-         |
| 18 | ance measurements to meet internal effi-       |
| 19 | ciency and effectiveness goals; and            |
| 20 | "(vi) to increasing the accuracy and           |
| 21 | completeness of international trade data       |
| 22 | and facilitate a more efficient flow of infor- |
| 23 | mation between Federal departments and         |
| 24 | agencies.".                                    |

| 1  | SEC. 213. REPORT ON OVERSIGHT OF REVENUE PROTEC-           |
|----|--|
| 2  | TION AND ENFORCEMENT MEASURES.                             |
| 3  | (a) Contents of Report.—The Inspector General              |
| 4  | of the Department of Homeland Security shall, at the       |
| 5  | times specified in subsection (b), submit to the Committee |
| 6  | on Finance of the Senate and the Committee on Ways and     |
| 7  | Means of the House of Representatives a report assessing   |
| 8  | the following, with respect to the 2-fiscal-year period to |
| 9  | which the report applies:                                  |
| 10 | (1) The effectiveness of the measures taken by             |
| 11 | the U.S. Customs and Border Protection Agency              |
| 12 | with respect to revenue protection, including—             |
| 13 | (A) the collection of countervailing and                   |
| 14 | antidumping duties;  |
| 15 | (B) the assessment and collection of com-                  |
| 16 | mercial fines and penalties; and                           |
| 17 | (C) the adequacy of the policies of the                    |
| 18 | Agency with respect to monitoring and tracking             |
| 19 | of merchandise transported in bond and col-                |
| 20 | lecting duties, as appropriate.                            |
| 21 | (2) The effectiveness of actions taken by the              |
| 22 | U.S. Customs and Border Protection Agency to               |
| 23 | measure accountability and performance with re-            |
| 24 | spect to revenue protection.                               |
| 25 | (3) The number and outcome of investigations               |
| 26 | instituted by the U.S. Customs and Border Protec-          |

- 1 tion Agency with respect to the underpayment of du-
- 2 ties.
- 3 (4) The adequacy of training with respect to
- 4 the collection of duties provided for personnel of the
- 5 U.S. Customs and Border Protection Agency.
- 6 (b) Timing of Report.—The report under sub-
- 7 section (a) shall be submitted not later than March 31,
- 8 2014, and not later than March 31 of each second year
- 9 thereafter, with respect to the 2-fiscal-year period ending
- 10 on September 30 of the preceding calendar year.
- 11 SEC. 214. REPORT ON SECURITY AND REVENUE MEASURES
- 12 WITH RESPECT TO MERCHANDISE TRANS-
- 13 **PORTED IN BOND.**
- 14 (a) IN GENERAL.—Not later than December 31 of
- 15 2013, 2014, and 2015 the Secretary of Homeland Secu-
- 16 rity and the Secretary of the Treasury shall jointly submit
- 17 to the Committee on Finance of the Senate and the Com-
- 18 mittee on Ways and Means of the House of Representa-
- 19 tives a report on efforts undertaken by the U.S. Customs
- 20 and Border Protection Agency to ensure the secure trans-
- 21 portation of merchandise in bond through the United
- 22 States and the collection of revenue owed upon the entry
- 23 of such merchandise into the United States for consump-
- 24 tion.

- 1 (b) Contents.—The report required by subsection 2 (a) shall include information, for the fiscal year preceding 3 the submission of the report, on— 4 (1) the overall number of entries of merchan-5 dise for transportation in bond through the United 6 States; 7 (2) the ports at which merchandise arrives in 8 the United States for transportation in bond and at 9 which records of the arrival of such merchandise are 10 generated; 11 (3) the average time taken to reconcile such 12 records with the records at the final destination of 13 the merchandise in the United States to demonstrate that the merchandise reaches its final destination or 14 15 is re-exported; 16 (4) the average time taken to transport mer-17 chandise in bond from the port at which the mer-18 chandise arrives in the United States to its final des-19 tination in the United States; 20 (5) the total amount of duties, taxes, and fees owed with respect to shipments of merchandise
- owed with respect to shipments of merchandise transported in bond and the total amount of such duties, taxes, and fees paid;

| 1  | (6) the total number of notifications by carriers         |
|----|---|
| 2  | of merchandise being transported in bond that the         |
| 3  | destination of the merchandise has changed; and           |
| 4  | (7) the number of entries that remain                     |
| 5  | unreconciled.   |
| 6  | SEC. 215. REPORT ON EFFECTIVENESS OF TRADE EN-            |
| 7  | FORCEMENT ACTIVITIES.                                     |
| 8  | (a) In General.—Not later than 1 year after the           |
| 9  | date of enactment of this Act, the Comptroller General    |
| 10 | of the United States shall submit to the Committee on     |
| 11 | Finance of the Senate and the Committee on Ways and       |
| 12 | Means of the House of Representatives a report on the     |
| 13 | effectiveness of trade enforcement activities of the U.S. |
| 14 | Customs and Border Protection Agency.                     |
| 15 | (b) Contents.—The report shall include—                   |
| 16 | (1) a description of the use of resources, results        |
| 17 | of audits and verifications, targeting, organization,     |
| 18 | and training of the U.S. Customs and Border Pro-          |
| 19 | tection Agency; and                                       |
| 20 | (2) a description of trade enforcement activities         |
| 21 | to address undervaluation, transshipment, legitimacy      |
| 22 | of entities making entry, protection of revenues,         |
| 23 | fraud prevention and detection, and penalties, in-        |
| 24 | cluding intentional misclassification, inadequate         |
| 25 | bonding, and other misrepresentations.                    |

| 1  | SEC. 216. PRIORITIES AND PERFORMANCE STANDARDS           |
|----|--|
| 2  | FOR CUSTOMS MODERNIZATION, TRADE FA-                     |
| 3  | CILITATION, AND TRADE ENFORCEMENT                        |
| 4  | FUNCTIONS AND PROGRAMS.                                  |
| 5  | (a) Priorities and Performance Standards.—               |
| 6  | (1) In general.—The Commissioner of U.S.                 |
| 7  | Customs and Border Protection, in consultation with      |
| 8  | the Committee on Ways and Means of the House of          |
| 9  | Representatives and the Committee on Finance of          |
| 10 | the Senate, shall establish priorities and perform-      |
| 11 | ance standards to measure the development and lev-       |
| 12 | els of achievement of the Customs modernization,         |
| 13 | trade facilitation, and trade enforcement functions      |
| 14 | and programs described in subsection (b).                |
| 15 | (2) Minimum priorities and standards.—                   |
| 16 | Such priorities and performance standards shall, at      |
| 17 | a minimum, include priorities and standards relating     |
| 18 | to efficiency, outcome, output, and other types of ap-   |
| 19 | plicable measures.                                       |
| 20 | (b) Functions and Programs Described.—The                |
| 21 | functions and programs referred to in subsection (a) are |
| 22 | the following:   |
| 23 | (1) The Automated Commercial Environment                 |
| 24 | computer system authorized under section                 |
| 25 | 13031(f)(5) of the Consolidated Omnibus Budget           |

| 1  | and Reconciliation Act of 1985 (19 U.S.C.   |
|----|---|
| 2  | 58e(f)(5)).   |
| 3  | (2) Each of the priority trade issues described                                     |
| 4  | in paragraph (3)(B)(ii) of section 2(d) of the Act of                               |
| 5  | March 3, 1927 (44 Stat. 1381, chapter 348; 19                                       |
| 6  | U.S.C. 2072(d)), as added by section 211(a) of this                                 |
| 7  | Act.  |
| 8  | (3) The Centers of Excellence and Expertise de-                                     |
| 9  | scribed in section 212(c) of this Act.  |
| 10 | (4) Drawback for exported merchandise under   |
| 11 | section 313 of the Tariff Act of 1930 (19 U.S.C.                                    |
| 12 | 1313), as amended by section 404 of this Act.                                       |
| 13 | (5) Transactions relating to imported merchan-                                      |
| 14 | dise in bond.   |
| 15 | (6) Collection of countervailing duties assessed                                    |
| 16 | under subtitle A of title VII of the Tariff Act of                                  |
| 17 | $1930\ (19\ \mathrm{U.S.C.}\ 1671\ \mathrm{et}\ \mathrm{seq.})$ and antidumping du- |
| 18 | ties assessed under subtitle B of title VII of the Tar-                             |
| 19 | iff Act of 1930 (19 U.S.C. 1673 et seq.).   |
| 20 | (7) The expedited clearance of cargo.   |
| 21 | (8) The issuance of regulations and rulings.  |
| 22 | (9) The issuance of Regulatory Audit Reports.                                       |
| 23 | (c) Submission to Congress.—  |
| 24 | (1) In general.—The Commissioner of U.S.  |
| 25 | Customs and Border Protection shall submit to the                                   |

- 1 Committee on Ways and Means of the House of 2 Representatives and the Committee on Finance of 3 the Senate a description of the priorities and per-4 formance standards referred to in subsection (a) not 5 later than 180 days after the date of enactment of
- this Act.
   (2) PROPOSED CHANGES.—The Commissioner
- of U.S. Customs and Border Protection shall submit to the congressional committees referred to in paragraph (1) a description of any changes to the priorities and performance standards referred to in subsection (a) not later than 30 days before such changes are to take effect.
- (d) Report.—Not later than December 31, 2013,and December 31 of each year thereafter, the Commis-
- 16 sioner of U.S. Customs and Border Protection shall sub-
- 17 mit to the Committee on Ways and Means of the House
- 18 of Representatives and the Committee on Finance of the
- 19 Senate a report on the implementation of this section for
- 20 the previous fiscal year.
- 21 SEC. 217. EDUCATIONAL SEMINARS TO IMPROVE EFFORTS
- TO CLASSIFY AND APPRAISE IMPORTED AR-
- 23 TICLES AND TO IMPROVE TRADE ENFORCE-
- 24 MENT EFFORTS.
- 25 (a) In General.—

| 1  | (1) Establishment.—The Commissioner of               |
|----|--|
| 2  | U.S. Customs and Border Protection and the Direc-    |
| 3  | tor of U.S. Immigration and Customs Enforcement      |
| 4  | shall establish and carry out on a fiscal year basis |
| 5  | educational seminars to—                             |
| 6  | (A) improve the ability of U.S. Customs              |
| 7  | and Border Protection Agency personnel to            |
| 8  | classify and appraise articles imported into the     |
| 9  | United States in accordance with the customs         |
| 10 | and trade laws of the United States; and             |
| 11 | (B) improve the trade enforcement efforts            |
| 12 | of U.S. Customs and Border Protection Agency         |
| 13 | personnel and U.S. Immigration and Customs           |
| 14 | Enforcement personnel.                               |
| 15 | (2) Location.—Each educational seminar               |
| 16 | under this section shall be located at a United      |
| 17 | States port of entry or a Center of Excellence and   |
| 18 | Expertise described in section 212(c) of this Act.   |
| 19 | (b) Content.—  |
| 20 | (1) Classifying and appraising imported              |
| 21 | ARTICLES.—In carrying out subsection (a)(1)(A),      |
| 22 | the Commissioner, the Director, and interested par-  |

ties in the private sector selected under subsection

(c) shall provide instruction and related instructional

materials at each educational seminar under this

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- section to U.S. Customs and Border Protection
  Agency personnel and, as appropriate, to U.S. Immigration and Customs Enforcement Agency personnel
  on the following:
  - (A) Conducting a physical inspection of an article imported into the United States, including testing of samples of the article, to determine if the article is mislabeled in the manifest or other accompanying documentation.
  - (B) Reviewing the manifest and other accompanying documentation of an article imported into the United States to determine if the country of origin of the article listed in the manifest or other accompanying documentation is accurate.
    - (C) Customs valuation.
  - (D) Industry supply chains and other related matters as determined to be appropriate by the Commissioner.
  - (2) Trade enforcement efforts.—In carrying out subsection (a)(1)(B), the Commissioner, the Director, and interested parties in the private sector selected under subsection (c) shall provide instruction and related instructional materials at each educational seminar under this section to U.S. Cus-

| 1  | toms and Border Protection Agency personnel and,          |
|----|---|
| 2  | as appropriate, to U.S. Immigration and Customs           |
| 3  | Enforcement Agency personnel to identify opportuni-       |
| 4  | ties to enhance enforcement of the following:             |
| 5  | (A) Collection of countervailing duties as-               |
| 6  | sessed under subtitle A of title VII of the Tariff        |
| 7  | Act of 1930 (19 U.S.C. 1671 et seq.) and anti-            |
| 8  | dumping duties assessed under subtitle B of               |
| 9  | title VII of the Tariff Act of 1930 (19 U.S.C.            |
| 10 | 1673 et seq.).  |
| 11 | (B) Addressing evasion of duties on im-                   |
| 12 | ports of textiles.  |
| 13 | (C) Protection of intellectual property                   |
| 14 | rights.   |
| 15 | (D) Enforcement of child labor laws.                      |
| 16 | (3) Approval of commissioner and direc-                   |
| 17 | TOR.—The instruction and related instructional ma-        |
| 18 | terials at each educational seminar under this sec-       |
| 19 | tion shall be subject to the approval of the Commis-      |
| 20 | sioner and the Director.                                  |
| 21 | (c) Selection Process.—                                   |
| 22 | (1) In general.—The Commissioner shall es-                |
| 23 | tablish a process to solicit, evaluate, and select inter- |
| 24 | ested parties in the private sector for purposes of as-   |

sisting in providing instruction and related instruc-

| 1  | tional materials described in subsection (b) at each    |
|----|---|
| 2  | educational seminar under this section.                 |
| 3  | (2) Criteria.—The Commissioner shall evalu-             |
| 4  | ate and select interested parties in the private sector |
| 5  | under the process established under paragraph (1)       |
| 6  | based on—   |
| 7  | (A) availability and usefulness;                        |
| 8  | (B) the volume, value, and incidence of                 |
| 9  | mislabeling or misidentification of origin of im-       |
| 10 | ported articles; and                                    |
| 11 | (C) other appropriate criteria established              |
| 12 | by the Commissioner.                                    |
| 13 | (3) Public availability.—The Commissioner               |
| 14 | shall publish in the Federal Register a detailed de-    |
| 15 | scription of the process established under paragraph    |
| 16 | (1) and the criteria established under paragraph (2).   |
| 17 | (d) Special Rule for Antidumping and Coun-              |
| 18 | TERVAILING ORDERS.—                                     |
| 19 | (1) In General.—The Commissioner shall give             |
| 20 | due consideration to carrying out an educational        |
| 21 | seminar under this section in whole or in part to im-   |
| 22 | prove the ability of U.S. Customs and Border Pro-       |
| 23 | tection Agency personnel to enforce a countervailing    |
| 24 | or antidumping duty order issued under section 706      |
| 25 | or 736 of the Tariff Act of 1930 (19 U.S.C. 1671e       |

- or 1673e) upon the request of a petitioner in an ac-
- 2 tion underlying such countervailing or antidumping
- duty order.
- 4 (2) Interested party.—A petitioner de-
- 5 scribed in paragraph (1) shall be treated as an inter-
- 6 ested party in the private sector for purposes of the
- 7 requirements of this section.
- 8 (e) Performance Standards.—The Commissioner
- 9 and the Director shall establish performance standards to
- 10 measure the development and level of achievement of edu-
- 11 cational seminars under this section.
- 12 (f) Reporting.—Beginning September 30, 2013, the
- 13 Commissioner and Director shall submit to the Committee
- 14 on Ways and Means of the House of Representatives and
- 15 the Committee on Finance of the Senate an annual report
- 16 on the effectiveness of educational seminars under this
- 17 section.
- 18 (g) Definitions.—In this section:
- 19 (1) COMMISSIONER.—The term "Commis-
- sioner" means the Commissioner of U.S. Customs
- and Border Protection.
- 22 (2) DIRECTOR.—The term "Director" means
- the Director of U.S. Immigration and Customs En-
- 24 forcement.

- 1 (3) UNITED STATES.—The term "United 2 States" means the customs territory of the United 3 States, as defined in General Note 2 to the Har-4 monized Tariff Schedule of the United States.
- 5 (4) U.S. CUSTOMS AND BORDER PROTECTION
  6 AGENCY PERSONNEL.—The term "U.S. Customs
  7 and Border Protection Agency personnel" means im8 port specialists, auditors, and other appropriate em9 ployees of the U.S. Customs and Border Protection
  10 Agency.
- 11 (5) U.S. IMMIGRATION AND CUSTOMS ENFORCE12 MENT AGENCY PERSONNEL.—The term "U.S. Immi13 grations and Customs Enforcement Agency per14 sonnel" means Homeland Security Investigations Di15 rectorate personnel and other appropriate employees
  16 of the U.S. Immigrations and Customs Enforcement
  17 Agency.

# 18 **CHAPTER 2—IMPORTER REQUIREMENTS**

- 19 SEC. 221. IMPORTER OF RECORD PROGRAM.
- 20 (a) Establishment.—Not later than 180 days after
- 21 the date of the enactment of this Act, the Secretary of
- 22 Homeland Security shall establish an importer of record
- 23 program to assign and maintain importer of record num-
- 24 bers.

| 1  | (b) REQUIREMENTS.—The Secretary of Homeland            |
|----|--|
| 2  | Security shall ensure that, as part of the importer of |
| 3  | record program, the U.S. Customs and Border Protection |
| 4  | Agency—  |
| 5  | (1) develops criteria that importers must meet         |
| 6  | in order to obtain an importer of record number, in-   |
| 7  | cluding—   |
| 8  | (A) criteria to ensure sufficient informa-             |
| 9  | tion is collected to allow the U.S. Customs and        |
| 10 | Border Protection Agency to verify the exist-          |
| 11 | ence of the importer requesting the importer of        |
| 12 | record number;   |
| 13 | (B) criteria to ensure sufficient informa-             |
| 14 | tion is collected to allow the U.S. Customs and        |
| 15 | Border Protection Agency to identify linkages          |
| 16 | or other affiliations between importers that are       |
| 17 | requesting or have been assigned importer of           |
| 18 | record numbers; and                                    |
| 19 | (C) criteria to ensure sufficient informa-             |
| 20 | tion is collected to allow the U.S. Customs and        |
| 21 | Border Protection Agency to identify changes in        |
| 22 | address and corporate structure of importers;          |
| 23 | (2) provides a process by which importers are          |
| 24 | assigned importer of record numbers;                   |

- 1 (3) maintains a centralized database of im-
- 2 porter of record numbers, including a history of im-
- 3 porter of record numbers associated with each im-
- 4 porter, and the information described in subpara-
- 5 graphs (A), (B), and (C) of paragraph (1);
- 6 (4) evaluates the accuracy of the database; and
- 7 (5) takes measures to ensure that duplicate im-
- 8 porter of record numbers are not issued.
- 9 (c) Report.—Not later than 1 year after the date
- 10 of the enactment of this Act, the Secretary of Homeland
- 11 Security shall submit to the Committee on Finance of the
- 12 Senate and the Committee on Ways and Means of the
- 13 House of Representatives a report on the importer of
- 14 record program established under subsection (a).
- 15 (d) Number Defined.—In this subsection, the term
- 16 "number", with respect to an importer of record, means
- 17 a filing identification number described in section 24.5 of
- 18 title 19, Code of Federal Regulations (as in effect on the
- 19 day before the date of the enactment of this Act).
- 20 SEC. 222. CUSTOMS BROKER IDENTIFICATION OF IMPORT-
- 21 ERS.
- 22 (a) In General.—Section 641 of the Tariff Act of
- 23 1930 (19 U.S.C. 1641) is amended by adding at the end
- 24 the following:
- 25 "(i) Identification of Importers.—

- "(1) IN GENERAL.—The Secretary shall prescribe regulations setting forth the minimum standards for customs brokers and importers, including nonresident importers, regarding the identity of the importer that shall apply in connection with the importation of merchandise into the United States.
  - "(2) MINIMUM REQUIREMENTS.—The regulations shall, at a minimum, require customs brokers to implement, and importers (after being given adequate notice) to comply with, reasonable procedures for—
    - "(A) collecting the identity of importers, including nonresident importers, seeking to import merchandise into the United States to the extent reasonable and practicable; and
    - "(B) maintaining records of the information used to substantiate a person's identity, including name, address, and other identifying information.
  - "(3) Penalties.—Any customs broker who fails to collect information required under the regulations prescribed under this subsection shall be liable to the United States, at the discretion of the Secretary, for a monetary penalty not to exceed \$10,000 for each violation of those regulations and

- subject to revocation or suspension of a license or permit of the customs broker pursuant to the procedures set forth in subsection (d).
- "(4) DEFINITIONS.—In this subsection, the terms 'importer' and 'nonresident importer' have the meaning given such terms in section 2 of the Customs Trade Facilitation and Enforcement Act of 2012.".
- 9 (b) STUDY AND REPORT REQUIRED.—Not later than
  10 180 days after the date of enactment of this Act, the Com11 missioner of U.S. Customs and Border Protection shall
  12 submit to Congress a report containing recommendations
  13 for—
  - (1) determining the most timely and effective way to require foreign nationals to provide customs brokers with appropriate and accurate information, comparable to that which is required of United States nationals, concerning the identity, address, and other related information relating to such foreign nationals necessary to enable customs brokers to comply with the requirements of section 641(i) of the Tariff Act of 1930 (as added by subsection (a)); and
  - (2) establishing a system for customs brokers to review information maintained by relevant Federal

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| 1  | agencies for purposes of verifying the identities of       |
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| 2  | importers, including nonresident importers, seeking        |
| 3  | to import merchandise into the United States.              |
| 4  | SEC. 223. ESTABLISHMENT OF "NEW IMPORTER" PROGRAM.         |
| 5  | (a) In General.—Not later than 180 days after the          |
| 6  | date of the enactment of this Act, the Commissioner of     |
| 7  | U.S. Customs and Border Protection shall establish a new   |
| 8  | importer program that directs the U.S. Customs and Bor-    |
| 9  | der Protection Agency to adjust bond amounts for new       |
| 10 | importers based on the level of risk assessed by the U.S.  |
| 11 | Customs and Border Protection Agency for protection of     |
| 12 | revenue of the Federal Government.                         |
| 13 | (b) Requirements.—The Commissioner shall en-               |
| 14 | sure that, as part of the new importer program established |
| 15 | under subsection (a), the U.S. Customs and Border Pro-     |
| 16 | tection Agency—  |
| 17 | (1) develops risk assessment guidelines for new            |
| 18 | importers to determine if and to what extent—              |
| 19 | (A) to adjust bond amounts of imported                     |
| 20 | products of new importers; and                             |
| 21 | (B) to increase screening of imported prod-                |
| 22 | ucts of new importers;                                     |
| 23 | (2) develops procedures to ensure increased                |
| 24 | oversight of imported products of new importers re-        |
| 25 | lating to the enforcement of the priority trade issues     |

- described in paragraph (3)(B)(ii) of section 2(d) of
- 2 the Act of March 3, 1927 (44 Stat. 1381, chapter
- 3 348; 19 U.S.C. 2072(d)), as added by section 211(a)
- 4 of this Act;
- 5 (3) develops procedures to ensure increased
- 6 oversight of imported products of new importers by
- 7 Centers of Excellence and Expertise established
- 8 under section 212; and
- 9 (4) establishes a centralized database of new
- importers to ensure accuracy of information that is
- 11 required to be provided by new importers to the U.S.
- 12 Customs and Border Protection Agency.
- 13 SEC. 224. REQUIREMENTS APPLICABLE TO NON-RESIDENT
- 14 **IMPORTERS.**
- 15 (a) IN GENERAL.—Part III of title IV of the Tariff
- 16 Act of 1930 (19 U.S.C. 1481 et seq.) is amended by in-
- 17 serting after section 484b the following new section:
- 18 "SEC. 484c. REQUIREMENTS APPLICABLE TO NON-RESI-
- 19 **DENT IMPORTERS.**
- 20 "(a) In General.—Except as provided in subsection
- 21 (c), if an importer of record under section 484 of this Act
- 22 is not a resident of the United States, the Commissioner
- 23 of U.S. Customs and Border Protection shall require the
- 24 non-resident importer to designate a resident agent in the

- 1 United States subject to the requirements described in
- 2 subsection (b).
- 3 "(b) Requirements.—The requirements described
- 4 in this subsection are the following:
- 5 "(1) The resident agent shall be authorized to
- 6 accept service of process against the non-resident
- 7 importer in connection with the importation of mer-
- 8 chandise.
- 9 "(2) The resident agent shall be liable to the
- 10 United States for payment of duties and penalties or
- other fines issued by the Secretary of Homeland Se-
- curity or the Commissioner if the Secretary or Com-
- missioner is unable to collect such duties and pen-
- alties or other fines from such non-resident importer
- in connection with the importation of merchandise.
- 16 "(3) The Secretary of the Treasury may require
- 17 the resident agent to secure a bond or other security
- in connection with the importation of merchandise
- as the Secretary may deem necessary for the protec-
- 20 tion of the revenue or to assure compliance with any
- 21 provision of law, regulation, or instruction which the
- 22 Secretary of the Commissioner may be authorized to
- enforce.
- 24 "(4) The Commissioner of U.S. Customs and
- 25 Border Protection shall require the non-resident im-

- 1 porter to establish a power of attorney with the resi-
- 2 dent agent in connection with the importation of
- 3 merchandise.
- 4 "(c) Non-Applicability.—The requirements of this
- 5 section shall not apply with respect to a non-resident im-
- 6 porter who is a validated Tier 2 or Tier 3 participant in
- 7 the Customs-Trade Partnership Against Terrorism pro-
- 8 gram established under subtitle B of title II of the SAFE
- 9 Port Act (6 U.S.C. 961 et seq.).
- 10 "(d) Penalties.—
- 11 "(1) IN GENERAL.—It shall be unlawful for any
- person to import into the United States any mer-
- chandise in violation of this section.
- 14 "(2) CIVIL PENALTIES.—Any person who vio-
- 15 lates paragraph (1) shall be liable for a civil penalty
- of \$50,000 for each such violation.
- 17 "(3) OTHER PENALTIES.—In addition to the
- penalties specified in paragraph (2), any violation of
- this section that violates any other customs and
- trade laws of the United States shall be subject to
- any applicable civil and criminal penalty, including
- seizure and forfeiture, that may be imposed under
- such customs or trade law or title 18, United States
- 24 Code, with respect to the importation of merchan-
- dise.

| 1  | "(4) Definition.—In this subsection, the term  |
|--|--|
| 2  | 'customs and trade laws of the United States' has  |
| 3  | the meaning given such term in section 2 of the  |
| 4  | Customs Trade Facilitation and Enforcement Act of  |
| 5  | 2012.".  |
| 6  | (b) Effective Date.—Section 484c of the Tariff   |
| 7  | Act of 1930, as added by subsection (a), takes effect on   |
| 8  | the date of the enactment of this Act and applies with   |
| 9  | respect to the importation of merchandise of an importer   |
| 10   | of record under section 484 of the Tariff Act of 1930 who  |
| 11   | is not a resident of the United States on or after the date  |
| 12   | that is 180 days after such date of enactment.   |
|  |  |
| 13   | SEC. 225. CERTIFIED IMPORTER PROGRAM.  |
| 13<br>14   | SEC. 225. CERTIFIED IMPORTER PROGRAM.  (a) INTERAGENCY COMMITTEE.—   |
|  |  |
| 14   | (a) Interagency Committee.—  |
| 14<br>15   | (a) Interagency Committee.—  (1) Establishment and membership.—  |
| 14<br>15<br>16                                       | <ul> <li>(a) Interagency Committee.—</li> <li>(1) Establishment and membership.—</li> <li>There is established an interagency committee com-</li> </ul>  |
| 14<br>15<br>16<br>17                                 | <ul> <li>(a) Interagency Committee.—</li> <li>(1) Establishment and membership.—</li> <li>There is established an interagency committee composed of representatives of each covered Federal</li> </ul>   |
| 14<br>15<br>16<br>17                                 | <ul> <li>(a) Interagency Committee.—</li> <li>(1) Establishment and membership.—</li> <li>There is established an interagency committee composed of representatives of each covered Federal agency.</li> </ul>   |
| 114<br>115<br>116<br>117<br>118                      | <ul> <li>(a) Interagency Committee.—</li> <li>(1) Establishment and membership.—</li> <li>There is established an interagency committee composed of representatives of each covered Federal agency.</li> <li>(2) Chairperson.—The Commissioner of U.S.</li> </ul>  |
| 14<br>15<br>16<br>17<br>18<br>19<br>20               | <ul> <li>(a) Interagency Committee.—</li> <li>(1) Establishment and membership.—</li> <li>There is established an interagency committee composed of representatives of each covered Federal agency.</li> <li>(2) Chairperson.—The Commissioner of U.S. Customs and Border Protection shall serve as the</li> </ul>   |
| 114<br>115<br>116<br>117<br>118<br>119<br>220<br>221 | <ul> <li>(a) Interagency Committee.—</li> <li>(1) Establishment and membership.—</li> <li>There is established an interagency committee composed of representatives of each covered Federal agency.</li> <li>(2) Chairperson.—The Commissioner of U.S. Customs and Border Protection shall serve as the chairperson of the interagency committee.</li> </ul> |

- sector, establish a certified importer program as described in subsection (c); and
- 3 (2) assess and make recommendations with re-4 spect to other trade facilitation benefits for certified 5 importers.

## (c) Certified Importer Program.—

- (1) In General.—The certified importer program described in this subsection is a program to authorize the release of cargo imported by a certified importer on an expedited basis that is subject to documentation for clearing or licensing the importation or exportation of such cargo by one or more covered Federal agencies.
- (2) CLEARANCE.—Such release of cargo shall include clearance through the Automated Commercial Environment computer system authorized under section 13031(f)(5) of the Consolidated Omnibus Budget and Reconciliation Act of 1985 (19 U.S.C. 58c(f)(5)), as amended by section 203 of this Act, or its predecessor system upon transmission of data governing entry and immediate delivery.

## 22 (d) Definitions.—In this section:

(1) CERTIFIED IMPORTER.—The term "certified importer" means an importer that—

| 1  | (A)(i) is a validated Tier 2 or Tier 3 par-          |
|----|--|
| 2  | ticipant in the Customs-Trade Partnership            |
| 3  | Against Terrorism program established under          |
| 4  | subtitle B of title II of the SAFE Port Act (6       |
| 5  | U.S.C. 961 et seq.); and                             |
| 6  | (ii) is a participant in good standing of the        |
| 7  | U.S. Customs and Border Protection Agency's          |
| 8  | importer self-assessment program; and                |
| 9  | (B) where applicable, participants in good           |
| 10 | standing in one or more programs maintained          |
| 11 | by a covered Federal agency to formally identify     |
| 12 | entities that are highly compliant with the cov-     |
| 13 | ered Federal agency's requirements and which         |
| 14 | maintain a rigorous system of internal controls      |
| 15 | and system of records to promote and document        |
| 16 | such compliance.                                     |
| 17 | (2) COVERED FEDERAL AGENCY.—The term                 |
| 18 | "covered Federal agency" means a Federal depart-     |
| 19 | ment or agency that requires documentation for       |
| 20 | clearing or licensing the importation or exportation |
| 21 | of cargo.  |
| 22 | (e) Report.—   |
| 23 | (1) In General.—Not later than March 31,             |
| 24 | 2014, the Commissioner of U.S. Customs and Bor-      |
| 25 | der Protection shall submit to the Committee on Fi-  |

- 1 nance of the Senate and the Committee on Ways
- 2 and Means of the House of Representatives a report
- 3 assessing the progress in establishing the certified
- 4 importer program as described in subsection (c) and
- 5 coordination among the Commissioner and the heads
- 6 of each covered Federal agency in facilitating the
- 7 implementation of the certified importer program.
- 8 (2) UPDATE.—Not later than December 31,
- 9 2015, the Commissioner of U.S. Customs and Bor-
- der Protection shall submit to the Committee on Fi-
- 11 nance of the Senate and the Committee on Ways
- and Means of the House of Representatives an up-
- date of the report required under paragraph (1).
- 14 CHAPTER 3—IMPORT-RELATED PROTEC-
- 15 TION OF INTELLECTUAL PROPERTY
- 16 **RIGHTS**
- 17 SEC. 231. EXCHANGE OF INFORMATION RELATED TO
- 18 TRADE ENFORCEMENT.
- 19 The Tariff Act of 1930 is amended by inserting after
- 20 section 628 (19 U.S.C. 1628) the following new section:
- 21 "SEC. 628A. EXCHANGE OF INFORMATION RELATED TO
- TRADE ENFORCEMENT.
- 23 "(a) Sharing of Information Relating to Copy-
- 24 RIGHTS AND REGISTERED MARKS.—

| "(1) Sharing of information and sam-                  |
|---|
| PLES.—Notwithstanding any other provision of law,     |
| the Secretary is authorized, at the time that mer-    |
| chandise is presented for examination and there-      |
| after, to provide to the owner of a copyright or a    |
| registered mark, with notification to the importer of |
| record—   |
| "(A) any information appearing on the                 |
| merchandise or its retail packaging,                  |
| "(B) a sample, or digital image, of the               |
| merchandise and its retail packaging, or              |
| "(C) if a sample is provided under sub-               |
| paragraph (B), any packing material accom-            |
| panying the sample that bears either a mark           |
| suspected of being a counterfeit mark of the          |
| registered mark, or a work suspected of infring-      |
| ing the copyright,                                    |
| as presented to the United States Customs and Bor-    |
| der Protection Agency, without redaction, whether     |
| imported into or exported from, or attempted to be    |
| exported from, the United States, to assist the Sec-  |
| retary in determining whether the merchandise,        |
| packaging, or packing material infringes the copy-    |
| right or bears or consists of a counterfeit mark of   |
|   |

the registered mark.

## "(2) Nondisclosure.—

"(A) IN GENERAL.—Any owner of a copyright or a registered mark to whom information, a sample, an image, or material described in subparagraph (A), (B), or (C) of paragraph (1) is provided under paragraph (1) may not disclose it to any other person or use it for a purpose other than the purpose described in paragraph (1).

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

"(C) USE IN JUDICIAL PROCEEDINGS
BARRED.—Information, samples, images, or
material described in subparagraph (A), (B), or
(C) of paragraph (1), or information obtained
from the provision of information, samples, images, or material under any such subparagraph,
may not be used by the owner of a copyright or
registered mark in any judicial proceeding,

other than a proceeding described in subparagraph (B).

"(3) Bonding requirements.—The Secretary may impose bonding requirements on the owner of the copyright or registered mark as a condition of disclosure of information and the provision of samples under this subsection.

#### "(4) Implementation.—

"(A) REGULATIONS.—Not later than the 90th day after the date of the enactment of this section, the Secretary shall promulgate revised regulations to carry out this subsection. Until such time as the Secretary promulgates the revised regulations, and notwithstanding section 818(g)(2) of the National Defense Authorization Act of 2012 (10 U.S.C. 2302 note; Public Law 112–81), those regulations in effect on the date of the enactment of this section implementing section 818(g)(1) of the National Defense Authorization Act of 2012 shall be in effect, except to the extent such regulations limit the application of this subsection.

"(B) Information sharing proc-

"(i) For importers.—

| 1  | "(I) IN GENERAL.—The Sec-               |
|----|---|
| 2  | retary is authorized to establish a     |
| 3  | clearance process for those importers   |
| 4  | of record who wish to participate in    |
| 5  | the process to allow for or accelerate  |
| 6  | the release of merchandise from the     |
| 7  | custody of the United States Customs    |
| 8  | and Border Protection Agency without    |
| 9  | the provision under paragraph (1)       |
| 10 | prior to seizure of the merchandise, of |
| 11 | information, samples, images, or ma-    |
| 12 | terial with respect to the merchandise  |
| 13 | "(II) Limitation on sharing             |
| 14 | OF INFORMATION.—In the case of an       |
| 15 | importer of record that participates in |
| 16 | the process under subclause (I), no in- |
| 17 | formation, samples, images, or mate-    |
| 18 | rial described in subparagraph (A)      |
| 19 | (B), or (C) of paragraph (1) of mer-    |
| 20 | chandise of that importer may be pro-   |
| 21 | vided, without redaction, to the owner  |
| 22 | of a copyright or registered mark       |
| 23 | prior to seizure of the merchandise.    |
| 24 | "(ii) For owners of copyrights          |
| 25 | AND REGISTERED MARKS.—                  |

| 1  | "(I) In general.—                  |
|----|------------------------------------|
| 2  | "(aa) Establishment.—              |
| 3  | The Secretary shall establish a    |
| 4  | process or processes for those     |
| 5  | owners of copyrights and owners    |
| 6  | of registered marks that wish to   |
| 7  | participate in the process or      |
| 8  | processes, through which any       |
| 9  | sharing of information, samples,   |
| 10 | images, and material under para-   |
| 11 | graph (1) will be carried out be-  |
| 12 | fore the notification to the im-   |
| 13 | porter of record referred to in    |
| 14 | paragraph (1) is made, subject to  |
| 15 | the limitation under subclause     |
| 16 | (II) of clause (i).                |
| 17 | "(bb) Ineligibility.—An            |
| 18 | owner of a copyright or a reg-     |
| 19 | istered mark shall not be eligible |
| 20 | to participate in a process de-    |
| 21 | scribed in item (aa) if that owner |
| 22 | of a copyright or a registered     |
| 23 | mark has violated the prohibi-     |
| 24 | tions on disclosure under para-    |
| 25 | graph (2).                         |

| 1  | "(II) Provision of samples                         |
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| 2  | AND INFORMATION TO CBP.—The                        |
| 3  | Secretary is authorized to establish a             |
| 4  | process for those owners of copyrights             |
| 5  | and owners of registered marks that                |
| 6  | wish to provide to the United States               |
| 7  | Customs and Border Protection Agen-                |
| 8  | cy samples of, or information regard-              |
| 9  | ing, their copyrighted merchandise or              |
| 10 | merchandise that bears their reg-                  |
| 11 | istered marks (as the case may be), to             |
| 12 | assist the Secretary in determining                |
| 13 | whether merchandise presented for ex-              |
| 14 | amination infringes the copyright or               |
| 15 | bears or consists of a counterfeit                 |
| 16 | mark of the registered mark.                       |
| 17 | "(b) Merchandise in Violation of                   |
| 18 | ANTICIRCUMVENTION MEASURES.—                       |
| 19 | "(1) Notification upon seizure.—                   |
| 20 | "(A) NOTIFICATION OF COPYRIGHT                     |
| 21 | OWNER.—Upon the seizure of merchandise by          |
| 22 | the Secretary for a violation of subsection (a) or |
| 23 | (b) of section 1201 of title 17, United States     |
| 24 | Code, the Secretary shall notify the owner of a    |
| 25 | copyright who is included on the list established  |

1 under paragraph (4) of the seizure of the mer-2 chandise that is capable of circumventing a 3 technological measure of the copyright owner 4 under either such subsection. The Secretary shall also provide to any such person additional 6 information upon request, which shall be equiv-7 alent to information provided pursuant to sec-8 tion 602(b) of title 17, United States Code, and 9 the regulations issued under that section. "(B) NOTIFICATION 10 OF

- TRADEMARK OWNER.—Upon the seizure of merchandise by the Secretary for a violation of subsection (a) or (b) of section 1201 of title 17, United States Code, the Secretary shall notify the owner of a registered mark—
  - "(i) on hardware that contains a technological measure that the seized merchandise is capable of circumventing, or
  - "(ii) on hardware on which the use of the seized merchandise is capable of circumventing a technological measure of a copyright owner,

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

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97 1 mark is included on the list established under 2 paragraph (4). The Secretary shall also provide 3 to any such person additional information upon 4 request, which shall be equivalent to information provided pursuant to section 602(b) of title 6 17, United States Code, and the regulations 7 issued under that section. "(2) Pre-seizure provision of samples.— 8 "(A) IN GENERAL.—In the case of mer-9 10 chandise that the Secretary reasonably suspects

may be subject to seizure by the Secretary for a violation of subsection (a) or (b) of section 1201 of title 17, United States Code, the Secretary is authorized to provide a sample of the merchandise to any person described in subparagraph (B) in the case of merchandise that is suspected of such a violation, when necessary in the view of the Secretary to assist the Secretary in determining whether such a violation has occurred.

- "(B) RECIPIENTS OF SAMPLES.—Persons to whom provision of samples is authorized under subparagraph (A) are—
- "(i) the owner of a copyright whose 24 25 technological measure the merchandise is

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| 1  | capable of circumventing under subsection   |
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| 2  | (a) or (b) of section 1201 of title 17,     |
| 3  | United States Code; and                     |
| 4  | "(ii) the owner of a registered mark—       |
| 5  | "(I) on hardware that contains a            |
| 6  | technological measure that the seized       |
| 7  | merchandise is capable of circum-           |
| 8  | venting, or                                 |
| 9  | "(II) on hardware on which the              |
| 10 | use of the seized merchandise is capa-      |
| 11 | ble of circumventing a technological        |
| 12 | measure of a copyright owner,               |
| 13 | in either case in a manner that would re-   |
| 14 | sult in injury to the owner of a copyright  |
| 15 | under either such subsection.               |
| 16 | "(C) Nondisclosure.—                        |
| 17 | "(i) In general.—Any owner of a             |
| 18 | copyright or a registered mark to whom a    |
| 19 | sample is provided under subparagraph       |
| 20 | (A) before the merchandise is seized may    |
| 21 | not disclose it to any other person or use  |
| 22 | it for a purpose other than the purpose de- |
| 23 | scribed in subparagraph (A) for such pro-   |
| 24 | vision of samples.                          |

| 1  | "(ii) Exception.—Clause (i) does not             |
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| 2  | apply in the case of a sample that is dis-       |
| 3  | closed or used in a civil action for infringe-   |
| 4  | ment of a copyright under title 17, United       |
| 5  | States Code, or infringement of a reg-           |
| 6  | istered mark under the Lanham Act.               |
| 7  | "(iii) Use in judicial proceedings               |
| 8  | BARRED.—A sample provided under sub-             |
| 9  | paragraph (A), or information obtained           |
| 10 | from the provision of such a sample, may         |
| 11 | not be used by the owner of a copyright or       |
| 12 | registered mark in any judicial proceeding,      |
| 13 | other than a proceeding described in clause      |
| 14 | (ii).  |
| 15 | "(D) Bonding requirements.—The Sec-              |
| 16 | retary may impose bonding requirements on the    |
| 17 | owner of the copyright or trademark as a condi-  |
| 18 | tion of the provision of samples under this      |
| 19 | paragraph.                                       |
| 20 | "(3) Post-seizure provision of samples.—         |
| 21 | "(A) IN GENERAL.—In the case of mer-             |
| 22 | chandise subject to seizure by the Secretary for |
| 23 | a violation of subsection (a) or (b) of section  |
| 24 | 1201 of title 17, United States Code, the Sec-   |
|    |  |

retary is authorized to provide a sample of the

| 1  | merchandise to any person described in sub- |
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| 2  | paragraph (B) if the merchandise has been   |
| 3  | seized for such a violation.                |
| 4  | "(B) RECIPIENTS OF SAMPLES.—Persons         |
| 5  | to whom provision of samples is authorized  |
| 6  | under subparagraph (A) are—                 |
| 7  | "(i) the owner of a copyright whose         |
| 8  | technological measure the merchandise is    |
| 9  | capable of circumventing under subsection   |
| 10 | (a) or (b) of section 1201 of title 17,     |
| 11 | United States Code, and who is included     |
| 12 | on the list established under paragraph     |
| 13 | (4); and                                    |
| 14 | "(ii) the owner of a registered mark—       |
| 15 | "(I) on hardware that contains a            |
| 16 | technological measure that the seized       |
| 17 | merchandise is capable of circum-           |
| 18 | venting, or                                 |
| 19 | "(II) on hardware on which the              |
| 20 | use of the seized merchandise is capa-      |
| 21 | ble of circumventing a technological        |
| 22 | measure of a copyright owner,               |
| 23 | in either case in a manner that would re-   |
| 24 | sult in injury to the owner of a copyright  |
| 25 | under either such subsection, if the owner  |

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

- "(C) Bonding requirements.—The Secretary may impose bonding requirements on the owner of the copyright or trademark as a condition of the provision of samples under this paragraph.
- "(4) ELIGIBLE OWNERS OF COPYRIGHTS AND REGISTERED MARKS.—An owner of a copyright or a registered mark is eligible to receive notification under paragraph (1) or samples under paragraph (3) if such owner is included on a list that the Secretary is authorized to maintain and periodically revise, through a process of notice and comment, for purposes of paragraphs (1) and (3) of this subsection.
- "(5) REGULATIONS.—Not later than the 90th day after the date of the enactment of this section,

- 1 the Secretary shall promulgate regulations estab-
- 2 lishing procedures that implement this subsection.
- 3 "(c) Notification of Parties Responsible for
- 4 Initiation of Section 337 Investigations.—The Sec-
- 5 retary is authorized to notify the party or parties respon-
- 6 sible for initiating an investigation under section 337 of
- 7 this Act when merchandise is excluded under subsection
- 8 (d) of that section, or merchandise is seized under sub-
- 9 section (i) of that section, pursuant to that investigation.
- 10 "(d) Definitions.—In this section:
- 11 "(1) The term 'counterfeit mark' has the mean-
- ing given that term in section 2320(e) of title 18,
- 13 United States Code.
- 14 "(2) The term 'Lanham Act' means the Act en-
- 15 titled 'An Act to provide for the registration and
- protection of trademarks used in commerce, to carry
- out the provisions of certain international conven-
- tions, and for other purposes', approved July 5,
- 19 1946 (15 U.S.C. 1051 et seq.).
- 20 "(3) The term 'mark' has the meaning given
- 21 that term in section 45 of the Lanham Act (15
- 22 U.S.C. 1127).
- 23 "(4) The term 'registered mark' has the mean-
- ing given that term in section 45 of the Lanham Act
- 25 (15 U.S.C. 1127).

| 1  | "(5) The term 'Secretary' means the Secretary        |
|----|--|
| 2  | of Homeland Security, acting through the Commis-     |
| 3  | sioner of U.S. Customs and Border Protection.        |
| 4  | "(6) The term 'work' means a work within the         |
| 5  | meaning of title 17, United States Code.             |
| 6  | "(7) The term 'without redaction' means with-        |
| 7  | out modification, deletion or omission.".            |
| 8  | TITLE III—PREVENTION OF EVA-                         |
| 9  | SION OF ANTIDUMPING AND                              |
| 10 | COUNTERVAILING DUTY OR-                              |
| 11 | DERS   |
| 12 | SEC. 301. SHORT TITLE.                               |
| 13 | This title may be cited as the "Preventing Recurring |
| 14 | Trade Evasion and Circumvention Act" or "PROTECT     |
| 15 | Act".  |
| 16 | SEC. 302. DEFINITIONS.                               |
| 17 | In this title:                                       |
| 18 | (1) Appropriate congressional commit-                |
| 19 | TEES.—The term "appropriate congressional com-       |
| 20 | mittees" means—                                      |
| 21 | (A) the Committee on Finance and the                 |
| 22 | Committee on Appropriations of the Senate;           |
| 23 | and  |

| 1  | (B) the Committee on Ways and Means                |
|----|--|
| 2  | and the Committee on Appropriations of the         |
| 3  | House of Representatives.                          |
| 4  | (2) Commissioner.—The term "Commis-                |
| 5  | sioner" means the Commissioner of U.S. Customs     |
| 6  | and Border Protection.                             |
| 7  | (3) COVERED MERCHANDISE.—The term "cov-            |
| 8  | ered merchandise" means merchandise that is sub-   |
| 9  | ject to—   |
| 10 | (A) a countervailing duty order issued             |
| 11 | under section 706 of the Tariff Act of 1930; or    |
| 12 | (B) an antidumping duty order issued               |
| 13 | under section 736 of the Tariff Act of 1930.       |
| 14 | (4) Eligible small business.—                      |
| 15 | (A) In General.—The term "eligible                 |
| 16 | small business" means any business concern         |
| 17 | which, in the Commissioner's judgment, due to      |
| 18 | its small size, has neither adequate internal re-  |
| 19 | sources nor financial ability to obtain qualified  |
| 20 | outside assistance in preparing and submitting     |
| 21 | for consideration allegations of evasion.          |
| 22 | (B) Non-reviewability.—Any agency                  |
| 23 | decision regarding whether a business concern      |
| 24 | is an eligible small business for purposes of sec- |

- tion 311(b)(3) is not reviewable by any other agency or by any court.
- 3 (5) ENTER; ENTRY.—The terms "enter" and
  4 "entry" refer to the entry, or withdrawal from ware5 house for consumption, in the customs territory of
  6 the United States.
- (6) EVADE: EVASION.—The terms "evade" and 7 "evasion" refer to entering covered merchandise into 8 9 the customs territory of the United States by means 10 of any document or electronically transmitted data 11 or information, written or oral statement, or act that 12 is material and false, or any omission that is mate-13 rial, and that results in any cash deposit or other se-14 curity or any amount of applicable antidumping or 15 countervailing duties being reduced or not being ap-16 plied with respect to the merchandise.
  - (7) Secretary.—The term "Secretary" means the Secretary of the Treasury.
- 19 (8) Trade remedy laws.—The term "trade 20 remedy laws" means title VII of the Tariff Act of 21 1930.
- 22 SEC. 303. APPLICATION TO CANADA AND MEXICO.
- 23 Pursuant to article 1902 of the North American Free
- 24 Trade Agreement and section 408 of the North American
- 25 Free Trade Agreement Implementation Act (19 U.S.C.

| 1  | 3438), this title and the amendments made by this title  |
|----|--|
| 2  | shall apply with respect to goods from Canada and Mexico |
| 3  | Subtitle A—Actions Relating to En-                       |
| 4  | forcement of Trade Remedy                                |
| 5  | Laws   |
| 6  | SEC. 311. TRADE REMEDY LAW ENFORCEMENT DIVISION.         |
| 7  | (a) Establishment.—                                      |
| 8  | (1) IN GENERAL.—The Secretary of Homeland                |
| 9  | Security shall establish and maintain within the Of-     |
| 10 | fice of International Trade of U.S. Customs and          |
| 11 | Border Protection, established under section 2(d) of     |
| 12 | the Act of March 3, 1927 (44 Stat. 1381, chapter         |
| 13 | 348; 19 U.S.C. 2072(d)), a Trade Remedy Law En-          |
| 14 | forcement Division.                                      |
| 15 | (2) Composition.—The Trade Law Remedy                    |
| 16 | Enforcement Division shall be composed of—               |
| 17 | (A) headquarters personnel led by a Direc-               |
| 18 | tor, who shall report to the Assistant Commis-           |
| 19 | sioner of the Office of International Trade; and         |
| 20 | (B) a National Targeting and Analysis                    |
| 21 | Group dedicated to preventing and countering             |
| 22 | evasion.   |
| 23 | (3) Duties.—The Trade Remedy Law Enforce-                |
| 24 | ment Division shall be dedicated—                        |

| 1  | (A) to the development and administration              |
|----|--|
| 2  | of policies to prevent and counter evasion;            |
| 3  | (B) to direct enforcement and compliance               |
| 4  | assessment activities concerning evasion;              |
| 5  | (C) to the development and conduct of                  |
| 6  | commercial risk assessment targeting with re-          |
| 7  | spect to cargo destined for the United States in       |
| 8  | accordance with subsection (c);                        |
| 9  | (D) to issuing Trade Alerts described in               |
| 10 | subsection (d); and                                    |
| 11 | (E) to the development of policies for the             |
| 12 | application of single entry and continuous             |
| 13 | bonds for entries of covered merchandise to suf-       |
| 14 | ficiently protect the collection of antidumping        |
| 15 | and countervailing duties commensurate with            |
| 16 | the level of risk of noncollection.                    |
| 17 | (b) Duties of Director.—The duties of the Direc-       |
| 18 | tor of the Trade Remedy Law Enforcement Division shall |
| 19 | include—   |
| 20 | (1) directing the trade enforcement and compli-        |
| 21 | ance assessment activities of the U.S. Customs and     |
| 22 | Border Protection Agency that concern evasion;         |
| 23 | (2) facilitating, promoting, and coordinating co-      |
| 24 | operation and the exchange of information between      |
| 25 | the U.S. Customs and Border Protection Agency,         |

- U.S. Immigration and Customs Enforcement, and
   other relevant agencies regarding evasion;
  - (3) notifying on a timely basis the administering authority (as defined in section 771(1) of the Tariff Act of 1930 (19 U.S.C. 1677(1))) and the Commission (as defined in section 771(2) of the Tariff Act of 1930 (19 U.S.C. 1677(2))) of any finding, determination, civil action, or criminal action taken by the U.S. Customs and Border Protection Agency or other Federal agency regarding evasion;
    - (4) serving as the primary liaison between the U.S. Customs and Border Protection Agency and the public regarding United States Government activities concerning evasion, including—
      - (A) receive and transmit to the appropriate U.S. Customs and Border Protection Agency office allegations from parties of evasion;
      - (B) upon request by the party or parties that submitted an allegation of evasion, provide information to such party or parties on the status of the U.S. Customs and Border Protection Agency's consideration of the allegation and decision to pursue or not pursue any investigations or other actions, such as changes in poli-

| 1  | cies, procedures, or resource allocation as a re-  |
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| 2  | sult of the allegation;                            |
| 3  | (C) as needed, request from the party or           |
| 4  | parties that submitted an allegation of evasion    |
| 5  | any additional information that may be relevant    |
| 6  | for the U.S. Customs and Border Protection         |
| 7  | Agency determining whether to initiate an in-      |
| 8  | vestigation or take any other action regarding     |
| 9  | the allegation;                                    |
| 10 | (D) notify on a timely basis the party or          |
| 11 | parties that submitted such an allegation of the   |
| 12 | results of any civil or criminal actions taken by  |
| 13 | the U.S. Customs and Border Protection Agen-       |
| 14 | cy or other Federal agency regarding evasion as    |
| 15 | a direct or indirect result of the allegation;     |
| 16 | (E) upon request, provide technical assist-        |
| 17 | ance and advice to eligible small businesses to    |
| 18 | enable such businesses to prepare and submit       |
| 19 | allegations of evasion, except that the Director   |
| 20 | may deny assistance if the Director concludes      |
| 21 | that the allegation, if submitted, would not lead  |
| 22 | to the initiation of an investigation or any other |
| 23 | action to address the allegation;                  |
| 24 | (F) in cooperation with the public, the            |
| 25 | Commercial Customs Operations Advisory Com-        |

| 1  | mittee, the Trade Support Network, and any                 |
|----|--|
| 2  | other relevant parties and organizations, de-              |
| 3  | velop guidelines on the types and nature of in-            |
| 4  | formation that may be provided in allegations              |
| 5  | of evasion; and  |
| 6  | (G) regularly consult with the public, the                 |
| 7  | Commercial Customs Operations Advisory Com-                |
| 8  | mittee, the Trade Support Network, and any                 |
| 9  | other relevant parties and organizations regard-           |
| 10 | ing the development and implementation of reg-             |
| 11 | ulations, interpretations, and policies related to         |
| 12 | countering evasion.  |
| 13 | (c) Preventing and Countering Evasion of the               |
| 14 | TRADE REMEDY LAWS.—In carrying out its duties with         |
| 15 | respect to preventing and countering evasion, the National |
| 16 | Targeting and Analysis Group dedicated to preventing and   |
| 17 | countering evasion shall—                                  |
| 18 | (1) establish targeted risk assessment meth-               |
| 19 | odologies and standards—                                   |
| 20 | (A) for evaluating the risk that cargo des-                |
| 21 | tined for the United States may constitute                 |
| 22 | evading covered merchandise; and                           |
| 23 | (B) for issuing, as appropriate, Trade                     |
| 24 | Alerts described in subsection (d); and                    |

| 1  | (2) to the extent practicable and otherwise au-             |
|----|---|
| 2  | thorized by law, use information available from the         |
| 3  | Automated Commercial System, the Automated                  |
| 4  | Commercial Environment computer system, the                 |
| 5  | Automated Targeting System, the Automated Ex-               |
| 6  | port System, the International Trade Data System,           |
| 7  | and the Treasury Enforcement Communications                 |
| 8  | System, and any successor systems, to administer            |
| 9  | the methodologies and standards established under           |
| 10 | paragraph (1).  |
| 11 | (d) Trade Alerts.—Based upon the application of             |
| 12 | the targeted risk assessment methodologies and standards    |
| 13 | established under subsection (c), the Director of the Trade |
| 14 | Remedy Law Enforcement Division shall issue Trade           |
| 15 | Alerts or other such means of notification to directors of  |
| 16 | United States ports of entry directing further inspection,  |
| 17 | or physical examination or testing, of specific merchandise |
| 18 | to ensure compliance with the trade remedy laws.            |
| 19 | SEC. 312. COLLECTION OF INFORMATION ON EVASION OF           |
| 20 | TRADE REMEDY LAWS.  |
| 21 | (a) Authority To Collect Information.—To de-                |
| 22 | termine whether covered merchandise is being entered into   |
| 23 | the customs territory of the United States through eva-     |
| 24 | sion, the Secretary, acting through the Commissioner—       |

| 1  | (1) shall exercise all existing authorities to col-  |
|----|--|
| 2  | lect information needed to make the determination;   |
| 3  | and  |
| 4  | (2) may collect such additional information as       |
| 5  | is necessary to make the determination through such  |
| 6  | methods as the Commissioner considers appropriate,   |
| 7  | including by issuing questionnaires with respect to  |
| 8  | the entry or entries at issue to—                    |
| 9  | (A) a person who filed an allegation with            |
| 10 | respect to the covered merchandise;                  |
| 11 | (B) a person who is alleged to have en-              |
| 12 | tered the covered merchandise into the customs       |
| 13 | territory of the United States through evasion;      |
| 14 | or   |
| 15 | (C) any other person who is determined to            |
| 16 | have information relevant to the allegation of       |
| 17 | entry of covered merchandise into the customs        |
| 18 | territory of the United States through evasion.      |
| 19 | (b) Adverse Inference.—                              |
| 20 | (1) In general.—If the Secretary finds that a        |
| 21 | person who filed an allegation, a person alleged to  |
| 22 | have entered covered merchandise into the customs    |
| 23 | territory of the United States through evasion, or a |
| 24 | foreign producer or exporter of covered merchandise  |

that is alleged to have entered into the customs ter-

- 1 ritory of the United States through evasion, has 2 failed to cooperate by not acting to the best of the 3 person's ability to comply with a request for information, the Secretary may, in making a determina-5 tion whether an entry or entries of covered merchan-6 dise may constitute merchandise that is entered into 7 the customs territory of the United States through 8 evasion, use an inference that is adverse to the inter-9 ests of that person in selecting from among the facts 10 otherwise available to determine whether evasion has 11 occurred.
  - (2) ADVERSE INFERENCE DESCRIBED.—An adverse inference used under paragraph (1) may include reliance on information derived from—
    - (A) the allegation of evasion of the trade remedy laws, if any, submitted to the U.S. Customs and Border Protection Agency;
  - (B) a determination by the Commissioner in another investigation, proceeding, or other action regarding evasion of the unfair trade laws; or
- (C) any other available information.
- 23 SEC. 313. ACCESS TO INFORMATION.
- 24 (a) IN GENERAL.—Section 777(b)(1)(A)(ii) of the 25 Trade Act of 1930 (19 U.S.C. 1677f(b)(1)(A)(ii)) is

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| 1  | amended by inserting "negligence, gross negligence, or"  |
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| 2  | after "regarding".   |
| 3  | (b) Additional Information.—Notwithstanding  |
| 4  | any other provision of law, the Secretary is authorized to   |
| 5  | provide to the Secretary of Commerce or the U.S. Inter-  |
| 6  | national Trade Commission any information that is nec-   |
| 7  | essary to enable the Secretary of Commerce or the U.S.   |
| 8  | International Trade Commission to assist the Secretary   |
| 9  | to identify, through risk assessment targeting or other-   |
| 10   | wise, covered merchandise that is entered into the customs   |
| 11   | territory of the United States through evasion.  |
| 12   | SEC. 314. COOPERATION WITH FOREIGN COUNTRIES ON  |
| 12   |  |
| 13   | PREVENTING EVASION OF TRADE REMEDY   |
|  |  |
| 13   | PREVENTING EVASION OF TRADE REMEDY   |
| 13<br>14   | PREVENTING EVASION OF TRADE REMEDY LAWS.   |
| <ul><li>13</li><li>14</li><li>15</li></ul>         | PREVENTING EVASION OF TRADE REMEDY  LAWS.  (a) BILATERAL AGREEMENTS.—  |
| 13<br>14<br>15<br>16                               | PREVENTING EVASION OF TRADE REMEDY  LAWS.  (a) BILATERAL AGREEMENTS.—  (1) IN GENERAL.—The Secretary shall seek to   |
| 13<br>14<br>15<br>16<br>17                         | PREVENTING EVASION OF TRADE REMEDY LAWS.  (a) BILATERAL AGREEMENTS.—  (1) IN GENERAL.—The Secretary shall seek to negotiate and enter into bilateral agreements with   |
| 13<br>14<br>15<br>16<br>17<br>18                   | PREVENTING EVASION OF TRADE REMEDY  LAWS.  (a) BILATERAL AGREEMENTS.—  (1) IN GENERAL.—The Secretary shall seek to negotiate and enter into bilateral agreements with the customs authorities or other appropriate authori-  |
| 13<br>14<br>15<br>16<br>17<br>18                   | LAWS.  (a) BILATERAL AGREEMENTS.—  (1) IN GENERAL.—The Secretary shall seek to negotiate and enter into bilateral agreements with the customs authorities or other appropriate authorities of foreign countries for purposes of cooperation  |
| 13<br>14<br>15<br>16<br>17<br>18<br>19<br>20       | LAWS.  (a) BILATERAL AGREEMENTS.—  (1) IN GENERAL.—The Secretary shall seek to negotiate and enter into bilateral agreements with the customs authorities or other appropriate authorities of foreign countries for purposes of cooperation on preventing evasion of the trade remedy laws of  |
| 13<br>14<br>15<br>16<br>17<br>18<br>19<br>20<br>21 | LAWS.  (a) Bilateral Agreements.—  (1) In general.—The Secretary shall seek to negotiate and enter into bilateral agreements with the customs authorities or other appropriate authorities of foreign countries for purposes of cooperation on preventing evasion of the trade remedy laws of the United States and the trade remedy laws of the |

agreement the following provisions and authorities:

- (A) On the request of the importing party, the exporting party shall provide, consistent with its laws, regulations, and procedures, production, trade, and transit documents and other information necessary to determine whether an entry or entries exported from the exporting party are subject to the importing party's trade remedy laws.
  - (B) On the written request of the importing party, the exporting party shall conduct a verification for purposes of enabling the importing party to make a determination described in subparagraph (A).
  - (C) The exporting party may allow the importing party to participate in a verification described in subparagraph (B), including through a site visit.
  - (D) If the exporting party does not allow participation of the importing party in a verification described in subparagraph (B), the importing party may take this fact into consideration in its trade enforcement and compliance assessment activities regarding the compliance of the exporting countries' exports with the importing countries' trade remedy laws.

| 1  | (b) Consideration.—The Commissioner is author-              |
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| 2  | ized to take into consideration whether a country is a sig- |
| 3  | natory to a bilateral agreement described in subsection (a) |
| 4  | and the extent to which the country is cooperating under    |
| 5  | the bilateral agreement for purposes of trade enforcement   |
| 6  | and compliance assessment activities of U.S. Customs and    |
| 7  | Border Protection that concern evasion by such country's    |
| 8  | exports.  |
| 9  | (c) Report.—Not later than December 31 of each              |
| 10 | year beginning after the date of the enactment of this Act, |
| 11 | the Secretary shall submit to the appropriate congres-      |
| 12 | sional committees a report summarizing—                     |
| 13 | (1) the status of any ongoing negotiations of bi-           |
| 14 | lateral agreements described in subsection (a), in-         |
| 15 | cluding the identities of the countries involved in         |
| 16 | such negotiations;  |
| 17 | (2) the terms of any completed bilateral agree-             |
| 18 | ments described in subsection (a); and                      |
| 19 | (3) bilateral cooperation and other activities              |
| 20 | conducted pursuant to or enabled by any completed           |
| 21 | bilateral agreements described in subsection (a).           |
| 22 | SEC. 315. TRADE NEGOTIATING OBJECTIVES.                     |

The principal negotiating objectives of the United States shall include obtaining the objectives of the bilateral agreements described under section 314(a) for any

| 1  | trade agreements under negotiation as of the date of the  |
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| 2  | enactment of this Act or future trade agreement negotia-  |
| 3  | tions.  |
| 4  | Subtitle B—Other Matters                                  |
| 5  | SEC. 321. ALLOCATION AND TRAINING OF PERSONNEL.           |
| 6  | The Commissioner shall, to the maximum extent pos-        |
| 7  | sible, ensure that the U.S. Customs and Border Protection |
| 8  | Agency—   |
| 9  | (1) employs sufficient personnel who have ex-             |
| 10 | pertise in, and responsibility for, preventing and in-    |
| 11 | vestigating the entry of covered merchandise into the     |
| 12 | customs territory of the United States through eva-       |
| 13 | sion;   |
| 14 | (2) on the basis of risk assessment metrics, as-          |
| 15 | signs sufficient personnel with primary responsibility    |
| 16 | for preventing the entry of covered merchandise into      |
| 17 | the customs territory of the United States through        |
| 18 | evasion to the ports of entry in the United States at     |
| 19 | which the Commissioner determines potential eva-          |
| 20 | sion presents the most substantial threats to the rev-    |
| 21 | enue of the United States; and                            |
| 22 | (3) provides adequate training to relevant per-           |
| 23 | sonnel to increase expertise and effectiveness in the     |

prevention and investigation of entries of covered

| 1  | merchandise into the customs territory of the United       |
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| 2  | States through evasion.                                    |
| 3  | SEC. 322. ANNUAL REPORT ON PREVENTION OF EVASION           |
| 4  | OF ANTIDUMPING AND COUNTERVAILING                          |
| 5  | DUTY ORDERS.   |
| 6  | (a) In General.—Not later than February 28 of              |
| 7  | each year, beginning in 2013, the Commissioner, in con-    |
| 8  | sultation with the Secretary of Commerce and the Assist-   |
| 9  | ant Secretary for U.S. Immigration and Customs Enforce-    |
| 10 | ment, shall submit to the appropriate congressional com-   |
| 11 | mittees a report on the efforts being taken to prevent and |
| 12 | investigate evasion.                                       |
| 13 | (b) Contents.—Each report required under sub-              |
| 14 | section (a) shall include—                                 |
| 15 | (1) for the calendar year preceding the submis-            |
| 16 | sion of the report—  |
| 17 | (A) a summary of the efforts of the U.S.                   |
| 18 | Customs and Border Protection Agency to pre-               |
| 19 | vent and investigate evasion;                              |
| 20 | (B) the number of allegations of evasion                   |
| 21 | received and the number of allegations of eva-             |
| 22 | sion resulting in investigations by the U.S. Cus-          |
| 23 | toms and Border Protection Agency or any                   |
| 24 | other agency;  |

| 1  | (C) a summary of the completed investiga-          |
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| 2  | tions of evasion, including the number and na-     |
| 3  | ture of the investigations initiated, conducted,   |
| 4  | or completed, as well as their resolution;         |
| 5  | (D) with respect to investigations that lead       |
| 6  | to the issuance of a penalty notice, the penalty   |
| 7  | amounts;   |
| 8  | (E) the amounts of antidumping and coun-           |
| 9  | tervailing duties collected as a result of any in- |
| 10 | vestigations or other actions by the U.S. Cus-     |
| 11 | toms and Border Protection Agency or any           |
| 12 | other agency;                                      |
| 13 | (F) a description of the allocation of per-        |
| 14 | sonnel and other resources of the U.S. Customs     |
| 15 | and Border Protection Agency and U.S. Immi-        |
| 16 | gration and Customs Enforcement to prevent         |
| 17 | and investigate evasion, including any assess-     |
| 18 | ments conducted regarding the allocation of        |
| 19 | such personnel and resources; and                  |
| 20 | (G) a description of training conducted to         |
| 21 | increase expertise and effectiveness in the pre-   |
| 22 | vention and investigation of evasion; and          |
| 23 | (2) a description of the U.S. Customs and Bor-     |
| 24 | der Protection Agency processes and procedures to  |
| 25 | prevent and investigate evasion, including—        |

| 1  | (A) the specific guidelines, policies, and        |
|----|---|
| 2  | practices used by the U.S. Customs and Border     |
| 3  | Protection Agency to ensure that allegations of   |
| 4  | evasion are promptly evaluated and acted upon     |
| 5  | in a timely manner;                               |
| 6  | (B) an evaluation of the efficacy of such         |
| 7  | existing guidelines, policies, and practices;     |
| 8  | (C) identification of any changes since the       |
| 9  | last report that have materially improved or re-  |
| 10 | duced the effectiveness of the U.S. Customs       |
| 11 | and Border Protection Agency to prevent and       |
| 12 | investigate evasion;                              |
| 13 | (D) a description of the development and          |
| 14 | implementation of policies for the application of |
| 15 | single entry and continuous bonds for entries of  |
| 16 | covered merchandise to sufficiently protect the   |
| 17 | collection of antidumping and countervailing      |
| 18 | duties commensurate with the level of risk on     |
| 19 | noncollection;                                    |
| 20 | (E) the processes and procedures for in-          |
| 21 | creased cooperation and information sharing       |
| 22 | with the Department of Commerce, U.S. Immi-       |
| 23 | gration and Customs Enforcement, and any          |
| 24 | other relevant Federal agencies to prevent and    |

investigate evasion; and

| 1  | (F) identification of any recommended pol-         |
|----|--|
| 2  | icy changes of other Federal agencies or legisla-  |
| 3  | tive changes to improve the effectiveness of the   |
| 4  | U.S. Customs and Border Protection Agency to       |
| 5  | prevent and investigate evasion.                   |
| 6  | SEC. 323. ADDRESSING CIRCUMVENTION BY NEW SHIP-    |
| 7  | PERS.  |
| 8  | Section 751(a)(2)(B) of the Tariff Act of 1930 (19 |
| 9  | U.S.C. 1675(a)(2)(B)) is amended—                  |
| 10 | (1) by striking clause (iii);                      |
| 11 | (2) by redesignating clause (iv) as clause (iii);  |
| 12 | and  |
| 13 | (3) inserting after clause (iii), as redesignated  |
| 14 | by paragraph (2) of this section, the following:   |
| 15 | "(iv) Any weighted average dumping                 |
| 16 | margin or individual countervailing duty           |
| 17 | rate determined for an exporter or pro-            |
| 18 | ducer in a review conducted under clause           |
| 19 | (i) shall be based solely on the bona fide         |
| 20 | United States sales of an exporter or pro-         |
| 21 | ducer, as the case may be, made during             |
| 22 | the period covered by the review. In deter-        |
| 23 | mining whether the United States sales of          |
| 24 | an exporter or producer made during the            |
| 25 | period covered by the review were bona             |

| 1  | fide, the administering authority shall con- |
|----|--|
| 2  | sider, depending on the circumstances sur-   |
| 3  | rounding such sales—                         |
| 4  | "(I) the prices of such sales;               |
| 5  | "(II) whether such sales were                |
| 6  | made in commercial quantities;               |
| 7  | "(III) the timing of such sales;             |
| 8  | "(IV) the expenses arising from              |
| 9  | such sales;                                  |
| 10 | "(V) whether the subject mer-                |
| 11 | chandise involved in such sales were         |
| 12 | resold in the United States at a prof-       |
| 13 | it;  |
| 14 | "(VI) whether such sales were                |
| 15 | made on an arms-length basis; and            |
| 16 | "(VII) any other factor the ad-              |
| 17 | ministering authority determines to be       |
| 18 | relevant as to whether such sales are,       |
| 19 | or are not, likely to be typical of those    |
| 20 | the exporter or producer will make           |
| 21 | after completion of the review.".            |

## TITLE IV—MISCELLANEOUS 1 **PROVISIONS** 2 3 SEC. 401. PENALTIES FOR CUSTOMS BROKERS. (a) IN GENERAL.—Section 641(d)(1) of the Tariff 4 5 Act of 1930 (19 U.S.C. 1641(d)(1)) is amended— (1) in subparagraph (E), by striking "; or" and 6 7 inserting a semicolon; 8 (2) in subparagraph (F), by striking the period 9 and inserting "; or"; and 10 (3) by adding at the end the following: 11 "(G) has been convicted of committing or 12 conspiring to commit an act of terrorism de-13 scribed in section 2332b of title 18, United 14 States Code.". 15 (b) TECHNICAL AMENDMENTS.—Section 641 of the Tariff Act of 1930 (19 U.S.C. 1641) is amended— 16 17 (1) in subsection (g)(2)(B), by striking "Sec-18 retary's notice" and inserting "notice under sub-19 paragraph (A)"; and 20 (2) by striking "Customs Service" each place it

appears and inserting "U.S. Customs and Border

Protection Agency".

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| 1  | SEC. 402. DE MINIMIS VALUE AND ENTRY UNDER REGULA-          |
|----|---|
| 2  | TIONS.  |
| 3  | (a) DE MINIMIS VALUE.—Section 321(a)(2)(C) of               |
| 4  | the Tariff Act of 1930 (19 U.S.C. 1321(a)(2)(C)) is         |
| 5  | amended by striking "\$200" and inserting "\$800".          |
| 6  | (b) Entry Under Regulations.—Section 498 of                 |
| 7  | the Tariff Act of 1930 (19 U.S.C. 1498) is amended—         |
| 8  | (1) in subsection (a), by striking paragraph (1)            |
| 9  | and inserting the following:                                |
| 10 | "(1) Merchandise, when different commercial                 |
| 11 | facilitation and risk considerations that may vary for      |
| 12 | different classes or kinds of merchandise or different      |
| 13 | classes of transactions may dictate;";                      |
| 14 | (2) by redesignating subsection (b) as sub-                 |
| 15 | section (c); and  |
| 16 | (3) by inserting after subsection (a) the fol-              |
| 17 | lowing:   |
| 18 | "(b) Entry of Merchandise Valued at \$2,500                 |
| 19 | OR LESS.—The Secretary of the Treasury shall prescribe      |
| 20 | rules and regulations for the declaration and entry of mer- |
| 21 | chandise if the aggregate value of the shipment of mer-     |
| 22 | chandise does not exceed \$2,500.".                         |
| 23 | (c) Effective Date.—The amendments made by                  |
| 24 | this section apply to articles entered, or withdrawn from   |
| 25 | warehouse for consumption, on or after the 90th day after   |
| 26 | the date of the enactment of this Act.                      |

| 1  | SEC. 403. COLLECTION AND REMITTANCE OF CERTAIN CUS-   |
|----|---|
| 2  | TOMS USER FEES.                                       |
| 3  | (a) In General.—Section 13031(d) of the Consoli-      |
| 4  | dated Omnibus Budget Reconciliation Act of 1985 (19   |
| 5  | U.S.C. 58c(d)) is amended—                            |
| 6  | (1) in the subsection heading, by inserting           |
| 7  | "AND REMITTANCE" after "COLLECTION";                  |
| 8  | (2) in paragraph (3)—                                 |
| 9  | (A) by inserting "required to be collected            |
| 10 | under such paragraph" after "shall remit those        |
| 11 | fees''; and   |
| 12 | (B) by striking "31 days after the close of           |
| 13 | the calendar quarter in which the fees are col-       |
| 14 | lected" and inserting "30 days after the end of       |
| 15 | the month in which the fees are required to be        |
| 16 | collected"; and                                       |
| 17 | (3) by adding at the end the following:               |
| 18 | "(5) The refund of any fee collected under sub-       |
| 19 | section (a)(5) shall not be payable from the Customs  |
| 20 | User Fee Account.                                     |
| 21 | "(6)(A) A person who collects fees under para-        |
| 22 | graph (1) or (2) and does not remit those fees to the |
| 23 | Secretary of the Treasury as required by paragraph    |
| 24 | (3) shall be subject to a penalty in accordance with  |
| 25 | the requirements of this paragraph.                   |

- "(B) The amount of such penalty shall be equal to 2 times the amount of the fee that was required to be remitted to the Secretary of the Treasury. The Secretary of the Treasury may establish and impose additional penalties through rulemaking for failure to comply with any provision of this subsection.
- 7 "(C) Any penalty collected under this para-8 graph shall be used to directly reimburse each ap-9 propriation for the amount paid out of that appro-10 priation for the costs described in subsection 11 (f)(3)(A).".
- 12 (b) Effective Date.—The amendments made by
- 13 subsection (a) take effect on the date of enactment of this
- 14 Act and apply with respect to fees that are required to
- 15 be collected and remitted to the Secretary of the Treasury
- 16 under section 13031(d) of the Consolidated Omnibus
- 17 Budget Reconciliation Act of 1985, as amended by sub-
- 18 section (a), on or after such date of enactment.

## 19 SEC. 404. DRAWBACK AND REFUNDS.

- 20 (a) Articles Made From Imported Merchan-
- 21 DISE.—Section 313(a) of the Tariff Act of 1930 (19
- 22 U.S.C. 1313(a)) is amended—
- 23 (1) by striking "under customs supervision";
- 24 and

| 1  | (2) by inserting "as calculated under subsection      |
|----|---|
| 2  | (r)(4)(A)," after "less 1 per centum of such du-      |
| 3  | ties,".   |
| 4  | (b) Substitution for Drawback Purposes.—              |
| 5  | Section 313(b) of the Tariff Act of 1930 (19 U.S.C    |
| 6  | 1313(b)) is amended—                                  |
| 7  | (1) by striking "If imported" and inserting the       |
| 8  | following:  |
| 9  | "(1) In general.—If imported";                        |
| 10 | (2) by striking "and any other merchandise            |
| 11 | (whether imported or domestic) of the same kind       |
| 12 | and quality" and inserting "and substitute merchan-   |
| 13 | dise";  |
| 14 | (3) by striking "three years" and inserting "5        |
| 15 | years'';  |
| 16 | (4) by striking "the receipt of such imported         |
| 17 | merchandise by the manufacturer or producer of        |
| 18 | such articles" and inserting "the date of importation |
| 19 | of such imported merchandise by the importer";        |
| 20 | (5) by striking "under customs supervision"           |
| 21 | each place it appears;                                |
| 22 | (6) by inserting after "merchandise used there        |
| 23 | in been imported," the following: "as calculated      |
| 24 | under subsection (r)(4)(A),";                         |

| 1  | (7) by striking the period at the end and insert-     |
|----|---|
| 2  | ing ", as calculated under subsection $(r)(4)(A)$ ."; |
| 3  | and   |
| 4  | (8) by adding at the end the following:               |
| 5  | "(2) Requirements relating to transfer                |
| 6  | OF MERCHANDISE.—                                      |
| 7  | "(A) MANUFACTURERS AND PRO-                           |
| 8  | DUCERS.—Drawback may be allowed under                 |
| 9  | paragraph (1) in the amount referred to under         |
| 10 | paragraph (1) only if the manufacturer or pro-        |
| 11 | ducer of articles has received the imported,          |
| 12 | duty-paid merchandise or substitute merchan-          |
| 13 | dise, directly or indirectly, of imported duty-       |
| 14 | paid merchandise or substitute merchandise.           |
| 15 | "(B) Exporters and destroyers.—                       |
| 16 | Drawback may be allowed under paragraph (1)           |
| 17 | in the amount referred to under paragraph (1)         |
| 18 | only if the exporter or destroyer of articles has     |
| 19 | received the manufactured or produced article         |
| 20 | or substitute article, directly or indirectly, of a   |
| 21 | substitute article.                                   |
| 22 | "(C) EVIDENCE OF TRANSFER.—Transfers                  |
| 23 | of merchandise under subparagraph (A) and             |
| 24 | transfers of articles under subparagraph (B)          |
| 25 | may be evidenced by business records kept in          |

| 1  | the normal course of business and no additional     |
|----|---|
| 2  | certificates of transfer or manufacture shall be    |
| 3  | required.".   |
| 4  | (c) Merchandise Not Conforming to Sample or         |
| 5  | Specifications.—Section 313(c) of the Tariff Act of |
| 6  | 1930 (19 U.S.C. 1313(c)) is amended—                |
| 7  | (1) in paragraph (1)—                               |
| 8  | (A) in the matter preceding subparagraph            |
| 9  | (A), by striking "under the supervision of the      |
| 10 | Customs Service';                                   |
| 11 | (B) in subparagraph (D)—                            |
| 12 | (i) by striking "3" and inserting "5";              |
| 13 | and   |
| 14 | (ii) by striking "under the supervision             |
| 15 | of the Customs Service"; and                        |
| 16 | (C) in the text immediately following sub-          |
| 17 | paragraph (D), by inserting "as calculated          |
| 18 | under subsection (r)(4)(A)," after "merchan-        |
| 19 | dise,"; and   |
| 20 | (2) in paragraph (2)—                               |
| 21 | (A) by striking "under the supervision of           |
| 22 | the Customs Service";                               |
| 23 | (B) by striking the last sentence and in-           |
| 24 | serting the following: "Transfers of merchan-       |
| 25 | dise may be evidenced by business records kept      |

| 1  | in the normal course of business and no addi-               |
|----|---|
| 2  | tional certificates of transfer shall be re-                |
| 3  | quired.".   |
| 4  | (d) Proof of Exportation.—Section 313(i) of the             |
| 5  | Tariff Act of 1930 (19 U.S.C. 1313(i)) is amended to read   |
| 6  | as follows:   |
| 7  | "(i) Proof of Exportation.—A person claiming                |
| 8  | drawback under this section shall, as proof of exportation, |
| 9  | maintain the record of exportation entered in the auto-     |
| 10 | mated export system of the United States Government or,     |
| 11 | if the exporter is unable to use that system, records kept  |
| 12 | in the normal course of business similar to the information |
| 13 | contained in such record of exportation.".                  |
| 14 | (e) Unused Merchandise Drawback.—Section                    |
| 15 | 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) is     |
| 16 | amended—  |
| 17 | (1) in paragraph (1)(A)—                                    |
| 18 | (A) by striking "3-year" and inserting "5-                  |
| 19 | year"; and  |
| 20 | (B) by inserting "and before filing the                     |
| 21 | drawback claim" after "the date of importa-                 |
| 22 | tion"; and  |
| 23 | (2) in paragraph (2)—                                       |
| 24 | (A) in subparagraph (B)—                                    |

| 1  | (i) by striking "3-year" and inserting       |
|----|--|
| 2  | "5-year";                                    |
| 3  | (ii) by inserting "and before filing the     |
| 4  | drawback claim" after "the imported mer-     |
| 5  | chandise''; and                              |
| 6  | (iii) by striking "under customs su-         |
| 7  | pervision";                                  |
| 8  | (B) in subparagraph (C)(ii)(II)—             |
| 9  | (i) by inserting ", directly or indi-        |
| 10 | rectly," after "received"; and               |
| 11 | (ii) by inserting ", tax, or fee" after      |
| 12 | "duty"; and                                  |
| 13 | (C) in the text immediately following sub-   |
| 14 | paragraph (C)—                               |
| 15 | (i) by inserting ", as calculated under      |
| 16 | subsection (r)(4)," after "under this sub-   |
| 17 | section"; and                                |
| 18 | (ii) by adding at the end the fol-           |
| 19 | lowing: "Merchandise shall be considered     |
| 20 | to be received directly or indirectly from a |
| 21 | person who imported and paid any duty,       |
| 22 | tax, or fee due on the imported merchan-     |
| 23 | dise if the recipient received any imported  |
| 24 | merchandise, any other merchandise           |
| 25 | (whether imported or domestic), or any       |

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

- 13 (f) CERTIFICATE OF DELIVERY.—Section 313 of the 14 Tariff Act of 1930 (19 U.S.C. 1313) is amended by strik-15 ing subsection (k).
- 16 (g) REGULATIONS.—Section 313(l) of the Tariff Act
  17 of 1930 (19 U.S.C. 1313(l)) is amended by striking "and
  18 the designation of the person to whom any refund or pay19 ment of drawback shall be made" and inserting "and the
  20 authority to require that all drawback entries be filed elec-
- 22 (h) Substitution of Finished Petroleum De-23 Rivatives.—Section 313(p) of the Tariff Act of 1930 (19
- 24 U.S.C. 1313(p)) is amended—

tronically".

| 1  | (1) by striking "Harmonized Tariff Schedule of          |
|----|---|
| 2  | the United States" each place it appears and insert-    |
| 3  | ing "HTS"; and  |
| 4  | (2) the text immediately following paragraph            |
| 5  | (3)(A)(ii), by striking "Commissioner of Customs"       |
| 6  | and inserting "Commissioner of U.S. Customs and         |
| 7  | Border Protection".                                     |
| 8  | (i) Packaging Material.—Section 313(q)(3) of the        |
| 9  | Tariff Act of 1930 (19 U.S.C. 1313(q)(3)) is amended by |
| 10 | striking "they contain" and inserting "it contains".    |
| 11 | (j) FILING AND CALCULATION OF DRAWBACK                  |
| 12 | Claims.—Section 313(r) of the Tariff Act of 1930 (19    |
| 13 | U.S.C. 1313(r)) is amended—                             |
| 14 | (1) in the heading, by inserting "AND CAL-              |
| 15 | CULATION OF" after "FILING";                            |
| 16 | (2) in paragraph (1)—                                   |
| 17 | (A) by striking the first sentence and in-              |
| 18 | serting the following: "A drawback entry shall          |
| 19 | be filed or applied for, as applicable, not later       |
| 20 | than 5 years after the date on which merchan-           |
| 21 | dise on which drawback is claimed was im-               |
| 22 | ported. If merchandise summarized on an entry           |
| 23 | summary line item with respect to which draw-           |
| 24 | back is claimed was imported on more than one           |
| 25 | date the earliest date of importation of the            |

| 1  | merchandise contained on that entry summary             |
|----|---|
| 2  | line item shall be used for purposes of this            |
| 3  | paragraph.";  |
| 4  | (B) in the second sentence, by striking "3-             |
| 5  | year" and inserting "5-year"; and                       |
| 6  | (C) in the third sentence, by striking "the             |
| 7  | Customs Service" and inserting "U.S. Customs            |
| 8  | and Border Protection";                                 |
| 9  | (3) in paragraph (3)(A)—                                |
| 10 | (A) in the matter preceding clause (i), by              |
| 11 | striking "The Customs Service" and inserting            |
| 12 | "U.S. Customs and Border Protection"; and               |
| 13 | (B) in clauses (i) and (ii), by striking "the           |
| 14 | Customs Service" each place it appears and in-          |
| 15 | serting "U.S. Customs and Border Protection";           |
| 16 | and   |
| 17 | (4) by adding at the end the following:                 |
| 18 | "(4) The amount used for purposes of determining        |
| 19 | a drawback entry for refund filed under subsection (a), |
| 20 | (b), or (c) shall equal the amount determined by multi- |
| 21 | plying—   |
| 22 | "(A) the amount determined by dividing—                 |
| 23 | "(i) the total amount of duties, taxes, and             |
| 24 | fees on the entry summary line item under               |
| 25 | which imported merchandise is reported: by              |

| 1  | "(ii) the number of units of imported mer-              |
|----|---|
| 2  | chandise; and   |
| 3  | "(B) the number of units of imported merchan-           |
| 4  | dise claimed for drawback.".                            |
| 5  | (k) Drawbacks for Recovered Materials.—                 |
| 6  | Section 313(x) of the Tariff Act of 1930 (19 U.S.C.     |
| 7  | 1313(x)) is amended by striking "and (c)" and inserting |
| 8  | "(c), and (j)".   |
| 9  | (l) Definitions.—Section 313 of the Tariff Act of       |
| 10 | 1930 (19 U.S.C. 1313) is amended by adding at the end   |
| 11 | the following:  |
| 12 | "(z) Definitions.—In this section:                      |
| 13 | "(1) Directly.—The term 'directly' means a              |
| 14 | transfer of merchandise or an article from 1 person     |
| 15 | to another person without any intermediate transfer.    |
| 16 | "(2) HTS.—The term 'HTS' means the Har-                 |
| 17 | monized Tariff Schedule of the United States.           |
| 18 | "(3) Indirectly.—The term 'indirectly' means            |
| 19 | a transfer of merchandise or an article from 1 per-     |
| 20 | son to another person with 1 or more intermediate       |
| 21 | transfers.  |
| 22 | "(4) Schedule B.—The term 'Schedule B'                  |
| 23 | means the Department of Commerce Schedule B,            |
| 24 | Statistical Classification of Domestic and Foreign      |
| 25 | Commodities Exported from the United States.            |

| 1  | "(5) Substitute merchandise; substitute         |
|----|---|
| 2  | ARTICLE.—The terms 'substitute merchandise' and |
| 3  | 'substitute article' mean—                      |
| 4  | "(A) a good that is classifiable within the     |
| 5  | same 8-digit HTS subheading number as an-       |
| 6  | other good (the Schedule B number may be        |
| 7  | used to demonstrate this fact) whether im-      |
| 8  | ported or domestic; or                          |
| 9  | "(B) a good demonstrated to have been           |
| 10 | classifiable within the same 8-digit HTS sub-   |
| 11 | heading number as another good at some point    |
| 12 | during the 5-year period beginning on the date  |
| 13 | of importation of the designated imported mer-  |
| 14 | chandise (the Schedule B number may be used     |
| 15 | to demonstrate this fact) whether imported or   |
| 16 | domestic.".                                     |
| 17 | (m) Effective Date.—                            |
| 18 | (1) In general.—The amendments made by          |
| 19 | this section shall—                             |
| 20 | (A) take effect on the date of the enact-       |
| 21 | ment of this Act; and                           |
| 22 | (B) except as provided in paragraph (2),        |
| 23 | apply to drawback claims filed with respect to  |
| 24 | merchandise that enters the United States on    |
| 25 | or after such date of enactment.                |

| 1  | (2) Transition rule.—During the 2-year pe-              |
|----|---|
| 2  | riod beginning on the date described in paragraph       |
| 3  | (1)(A), a person may elect to file a claim for draw-    |
| 4  | back under—   |
| 5  | (A) section 313 of the Tariff Act of 1930,              |
| 6  | as amended by this section; or                          |
| 7  | (B) section 313 of the Tariff Act of 1930,              |
| 8  | as in effect on the day before the date described       |
| 9  | in paragraph (1)(A).                                    |
| 10 | (n) Government Accountability Office Re-                |
| 11 | PORT.—Not later than one year after the date of enact-  |
| 12 | ment of this Act, the Comptroller General of the United |
| 13 | States shall submit to the Committee on Ways and Means  |
| 14 | of the House of Representatives and the Committee on    |
| 15 | Finance of the Senate a report that contains—           |
| 16 | (1) a description of the implementation of sec-         |
| 17 | tion 313 of the Tariff Act of 1930 (19 U.S.C.           |
| 18 | 1313), as amended by this section;                      |
| 19 | (2) an evaluation of the modernization of draw-         |
| 20 | back and refunds under subsection (b) of section        |
| 21 | 313 of such Act (relating to substitution for draw-     |
| 22 | back purposes), as amended by this section;             |
| 23 | (3) an evaluation of extending the moderniza-           |
| 24 | tion of drawback and refunds to subjection (i) of       |

| 1  | section 313 of such Act (relating to unused mer-    |
|----|---|
| 2  | chandise drawback), as amended by this section; and |
| 3  | (4) recommendations for the processing of           |
| 4  | drawback claims under the Automated Commercial      |
| 5  | Environment computer system authorized under sec-   |
| 6  | tion 13031(f)(5) of the Consolidated Omnibus Budg-  |
| 7  | et and Reconciliation Act of 1985 (19 U.S.C.        |
| 8  | 58e(f)(5)).   |
| 9  | SEC. 405. AMENDMENTS TO CHAPTER 98 OF THE HAR-      |
| 10 | MONIZED TARIFF SCHEDULE OF THE UNITED               |
| 11 | STATES.   |
| 12 | (a) Articles Exported and Returned, Ad-             |
| 13 | VANCED OR IMPROVED ABROAD.—                         |
| 14 | (1) In general.—U.S. Note 3 to subchapter           |
| 15 | II of chapter 98 of the Harmonized Tariff Schedule  |
| 16 | of the United States is amended by adding at the    |
| 17 | end the following:                                  |
| 18 | "(f)(i) For purposes of subheadings 9802.00.40      |
| 19 | and 9802.00.50, fungible goods exported from the    |
| 20 | United States for the purposes described in such    |
| 21 | subheadings—  |
| 22 | "(A) may be commingled; and                         |
| 23 | "(B) the origin, value, and classification of       |
| 24 | such goods may be accounted for using an in-        |
| 25 | ventory management method.                          |

"(ii) If a person chooses to use an inventory
management method under this paragraph with respect to fungible goods, the person shall use the
same inventory management method for any other
goods with respect to which the person claims
fungibility under this paragraph.

"(iii) For the purposes of this paragraph—

- "(A) the term 'fungible good' means any good that is commercially interchangeable with another good and that has properties that are essentially identical to the properties of another good; and
- "(B) the term 'inventory management method' means any method for managing inventory that is based on generally accepted accounting principles.".
- (2) Effective date.—The amendment made by this subsection applies to articles classifiable under subheading 9802.00.40 or 9802.00.50 of the Harmonized Tariff Schedule of the United States that are entered, or withdrawn from warehouse for consumption, on or after the date that is 60 days after the date of the enactment of this Act.
- 24 (b) Modification of Provisions Relating to
- 25 Returned Property.—

| 1  | (1) In general.—The article description for  |  |
|----|--|--|
| 2  | heading 9801.00.10 of the Harmonized Tariff  |  |
| 3  | Schedule of the United States is amended by insert-  |  |
| 4  | ing after "exported" the following: ", or any other  |  |
| 5  | products when returned within 3 years after having   |  |
| 6  | been exported".  |  |
| 7  | (2) Effective date.—The amendment made   |  |
| 8  | by paragraph (1) applies to goods entered, or with-  |  |
| 9  | drawn from warehouse for consumption, on or after  |  |
| 10 | the 15th day after the date of the enactment of this   |  |
| 11 | Act.   |  |
| 12 | (c) Duty Free Treatment for Certain United   |  |
| 13 | STATES GOVERNMENT PROPERTY RETURNED TO THE   |  |
| 14 | United States.—  |  |
| 15 | (1) In General.—Subchapter I of chapter 98   |  |
| 16 | of the Harmonized Tariff Schedule of the United  |  |
| 17 | States is amended by inserting in numerical se-  |  |
| 18 | quence the following new heading:  |  |
|    | "  9801.00.11 United States Government property, returned to the United States without having been advanced in value or improved in condition by any means while abroad, entered by the United States Government or a contractor to the United States Government, and certified by the importer as United States Government property |  |

19 (2) EFFECTIVE DATE.—The amendment made 20 by paragraph (1) applies to goods entered, or with-

| 1  | drawn from warehouse for consumption, on or after          |
|----|--|
| 2  | the 15th day after the date of the enactment of this       |
| 3  | Act.   |
| 4  | TITLE V—OTHER TRADE  |
| 5  | AGENCIES   |
| 6  | SEC. 501. UNITED STATES INTERNATIONAL TRADE COMMIS-        |
| 7  | SION.  |
| 8  | (a) FISCAL YEAR 2013.—There are authorized to be           |
| 9  | appropriated for the salaries and expenses of the United   |
| 10 | States International Trade Commission not to exceed        |
| 11 | \$82,800,000 for fiscal year 2013.                         |
| 12 | (b) FISCAL YEARS 2014 AND 2015.—Section                    |
| 13 | 330(e)(2)(A) of the Tariff Act of 1930 (19 U.S.C.          |
| 14 | 1330(e)(2)(A)) is amended by striking clauses (i) and (ii) |
| 15 | and inserting the following:                               |
| 16 | "(i) \$86,800,000 for fiscal year 2014.                    |
| 17 | "(ii) \$88,900,000 for fiscal year                         |
| 18 | 2015.".  |
| 19 | SEC. 502. OFFICE OF THE UNITED STATES TRADE REP-           |
| 20 | RESENTATIVE.   |
| 21 | (a) FISCAL YEAR 2013.—There are authorized to be           |
| 22 | appropriated for the salaries and expenses of the Office   |
| 23 | of the United States Trade Representative not to exceed    |
| 24 | \$51,300,000 for fiscal year 2013.                         |

| 1  | (b) Annual Report on Trade Agreements Pro-             |
|----|--|
| 2  | GRAM AND NATIONAL TRADE POLICY AGENDA.—Section         |
| 3  | 163(a) of the Trade Act of 1974 (19 U.S.C. 2213(a)) is |
| 4  | amended—   |
| 5  | (1) in paragraph (1)—                                  |
| 6  | (A) in subparagraph (A), by striking                   |
| 7  | "and" at the end;                                      |
| 8  | (B) in subparagraph (B), by striking the               |
| 9  | period at the end and inserting a semicolon;           |
| 10 | and  |
| 11 | (C) by adding at the end the following:                |
| 12 | "(C) the operation of all United States                |
| 13 | Trade Representative-led interagency programs          |
| 14 | during the preceding year and for the year in          |
| 15 | which the report is submitted."; and                   |
| 16 | (2) by adding at the end the following:                |
| 17 | "(4) The report shall include, with respect to         |
| 18 | the matters referred to in paragraph (1)(C), infor-    |
| 19 | mation regarding—                                      |
| 20 | "(A) the objectives and priorities of all              |
| 21 | United States Trade Representative-led inter-          |
| 22 | agency programs for the year, and the reasons          |
| 23 | therefor;  |
| 24 | "(B) the actions proposed, or anticipated,             |
| 25 | to be undertaken during the year to achieve            |

| 1  |         | such objectives and priorities, including actions |
|----|---------|---|
| 2  |         | authorized under the trade laws and negotia-      |
| 3  |         | tions with foreign countries;                     |
| 4  |         | "(C) the role of each Federal agency par-         |
| 5  |         | ticipating in the interagency program in achiev-  |
| 6  |         | ing such objectives and priorities and activities |
| 7  |         | of each agency with respect to their participa-   |
| 8  |         | tion in the program;                              |
| 9  |         | "(D) the United States Trade Representa-          |
| 10 |         | tive's coordination of each participating Federal |
| 11 |         | agency to more effectively achieve such objec-    |
| 12 |         | tives and priorities;                             |
| 13 |         | "(E) any proposed legislation necessary or        |
| 14 |         | appropriate to achieve any of such objectives or  |
| 15 |         | priorities; and                                   |
| 16 |         | "(F) the progress that was made during            |
| 17 |         | the preceding year in achieving such objectives   |
| 18 |         | and priorities and coordination activities in-    |
| 19 |         | cluded in the statement provided for such year    |
| 20 |         | under this paragraph.".                           |
| 21 | (c)     | RESOURCE MANAGEMENT AND STAFFING                  |
| 22 | PLANS.— | _   |
| 23 |         | (1) Annual Plan.—                                 |

| 1  | (A) In General.—The United States             |
|----|---|
| 2  | Trade Representative shall on an annual basis |
| 3  | develop a plan—                               |
| 4  | (i) to match available resources of the       |
| 5  | Office of the United States Trade Rep-        |
| 6  | resentative to projected workload and pro-    |
| 7  | vide a detailed analysis of how the funds     |
| 8  | allocated from the prior fiscal year to date  |
| 9  | have been spent;                              |
| 10 | (ii) to identify existing staff of the Of-    |
| 11 | fice and new staff that will be necessary to  |
| 12 | support the trade negotiation and enforce-    |
| 13 | ment functions and powers of the Office       |
| 14 | (including those of the Trade Policy Staff    |
| 15 | Committee) as described in section 141 of     |
| 16 | the Trade Act of 1974 (19 U.S.C. 2171)        |
| 17 | and section 301 of the Trade Act of 1974      |
| 18 | (19 U.S.C. 2411);                             |
| 19 | (iii) to identify existing staff of the       |
| 20 | Office and staff of other Federal agencies    |
| 21 | who will be required to be detailed to sup-   |
| 22 | port United States Trade Representative-      |
| 23 | led interagency programs, including any       |
| 24 | associated expenses; and                      |

| 1 | (iv) to provide a detailed analysis of     |
|---|--|
| 2 | the budgetary requirements of United       |
| 3 | States Trade Representative-led inter-     |
| 4 | agency programs for the next fiscal year   |
| 5 | and provide a detailed analysis of how the |
| 6 | funds allocated from the prior fiscal year |
| 7 | to date have been spent.                   |

(B) Report.—The United States Trade Representative shall submit to the Committee on Ways and Means and the Committee on Appropriations of the House of Representatives and the Committee on Finance and the Committee on Appropriations of the Senate a report that contains the plan required under subparagraph (A). The report required under this subparagraph shall be submitted in conjunction with the annual budget of the United States Government required to be submitted to Congress under section 1105 of title 31, United States Code.

## (2) Quadrennial Plan.—

(A) In General.—Pursuant to the goals and objectives of the strategic plan of the Office of the United States Trade Representative as required under section 306 of title 5, United

| 1  | States Code, the United States Trade Rep-       |
|----|---|
| 2  | resentative shall every 4 years develop a plan— |
| 3  | (i) to analyze internal quality controls        |
| 4  | and record management of the Office;            |
| 5  | (ii) to identify existing staff of the Of-      |
| 6  | fice and new staff that will be necessary to    |
| 7  | support the trade negotiation and enforce-      |
| 8  | ment functions and powers of the Office         |
| 9  | (including those of the Trade Policy Staff      |
| 10 | Committee) as described in section 141 of       |
| 11 | the Trade Act of 1974 (19 U.S.C. 2171)          |
| 12 | and section 301 of the Trade Act of 1974        |
| 13 | (19 U.S.C. 2411);                               |
| 14 | (iii) to identify existing staff of the         |
| 15 | Office and staff in other Federal agencies      |
| 16 | who will be required to be detailed to sup-     |
| 17 | port United States Trade Representative-        |
| 18 | led interagency programs, including any         |
| 19 | associated expenses;                            |
| 20 | (iv) to provide an outline of budget            |
| 21 | justifications, including salaries and ex-      |
| 22 | penses as well as non-personnel adminis-        |
| 23 | trative expenses, for the fiscal years re-      |
| 24 | quired under the strategic plan; and            |

(v) to provide an outline of budget justifications, including salaries and ex-penses as well as non-personnel administrative expenses, for United States Trade Representative-led interagency programs for the fiscal years required under the strategic plan. (B) Report.— (i) IN GENERAL.—The United States Trade Representative shall submit to the 

- (i) IN GENERAL.—The United States Trade Representative shall submit to the Committee on Ways and Means and the Committee on Appropriations of the House of Representatives and the Committee on Finance and the Committee on Appropriations of the Senate a report that contains the plan required under subparagraph (A). Except as provided in clause (ii), the report required under this clause shall be submitted in conjunction with the strategic plan of the Office as required under section 306 of title 5, United States Code.
- (ii) EXCEPTION.—The United States
  Trade Representative shall submit to the
  congressional committees specified in
  clause (i) an initial report that contains

| 1 | the plan required under subparagraph (A) |
|---|--|
| 2 | not later than February 1, 2013.         |

 $\bigcirc$