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TRADE FACILITATION AND TRADE ENFORCEMENT ACT OF 2015

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Mr. HATCH, from the Committee on Finance, submitted the following

REPORT

[To accompany S. 1269]

Including cost estimate of the Congressional Budget Office

The Committee on Finance, having considered an original bill (S. 1269) to reauthorize trade facilitation and trade enforcement functions and activities, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. REPORT AND OTHER MATERIALS OF THE COMMITTEE

A. Report of the Committee on Finance

The Committee on Finance, having considered an original bill (S. 1269) 107 to reauthorize trade facilitation and trade enforcement functions and activities, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

B. Summary of Congressional Consideration of the Bill

On April 20, 2015 Senator Hatch introduced S. 1015 on behalf of himself and Senator Wyden.

The Senate Committee on Finance met in open executive session on April 22, 2015 to consider the Chairman's Mark to reauthorize trade facilitation and trade enforcement functions and activities, and for other purposes. The proposal the Committee considered was based upon S. 1015. During the Committee's consideration of the proposal, 7 amendments were approved. The Committee approved the amended proposal by voice vote; and ordered the amended proposal reported as an original bill (S. 1269).

C. Background

1. U.S. Customs and Border Protection (CBP)

International trade is a critical component of the U.S. economy, with U.S. goods trade amounting to about $4 trillion in 2014, with

merchandise imports of $2.4 trillion and exports of $1.6 trillion. U.S. Customs and Border Protection (CBP), the agency charged with managing the import process at the border, admitted about 30.4 million import entries per year through over 300 U.S. ports of entry (POEs) in fiscal year (FY) 2013. The largest volume of imports comes through land (truck and rail) and maritime flows, which together account for over 25 million shipping containers per year.

The efficient flow of legally traded goods in and out of the United States is thus a vital element of the country's economic security. While U.S. trade in imports depends on the smooth flow of legal cargo through POEs, the goal of trade facilitation often competes with two additional goals: (1) the enforcement of U.S. trade laws designed to protect U.S. consumers and business against illegal imports and to collect customs revenue; and (2) import security, or preventing the entry of chemical, biological, radiological, and nuclear (CBRN) weapons and related material; illegal drugs; and other contraband.

SELECTED LEGISLATIVE HISTORY

The United States Customs Service (USCS) was established by an act of Congress on July 1, 1789. In September 2, 1789, the USCS was placed under the Secretary of the Treasury. Other key laws establishing and authorizing the trade functions of the USCS included provisions in the Tariff Act of 1930, the Customs Simplification Act of 1953, and the Reorganization Plan of 1965.

The last time that USCS's trade functions were fundamentally reorganized was in 1993, in Title VI of the North American Free Trade Agreement Implementation Act (P.L. 103–182), also known as the Customs Modernization and Informed Compliance Act, or "Mod Act." The Mod Act placed a greater administrative burden on the importer, and shifted USCS's focus to the collection of data and post-entry enforcement (i.e., audits) to ensure that all legal requirements have been met. By reducing USCS's role in duty determination, the act freed up agency assets to modernize the import process and improve post-entry enforcement. Although private industry stakeholders faced increased responsibilities, the law also provided for a quicker and more transparent import process through streamlined and automated customs operations.

Following the 9/11 terrorist attacks, the Homeland Security Act (P.L. 107–296) placed all or some part of 22 different federal departments and agencies, including the USCS, into the newly created Department of Homeland Security (DHS). The USCS became DHS' bureau of Customs and Border Protection (CBP) and has been the lead agency on import policy since 2003.

The customs reauthorization legislation in the Trade Act of 2002 (Title III of P.L. 107–210, the Customs Border Security Act of 2002) authorized appropriations for a number of noncommercial and commercial CBP programs. Sec. 338 of the Act amended the Tariff Act of 1930 to authorize the Secretary of the Treasury to require, by regulation, the electronic submission of this information to CBP. Sec. 343(a) required the Secretary, in consultation with a broad range of stakeholders, to promulgate regulations for advanced cargo information based on the Secretary's determination of what is "reasonably necessary to ensure aviation, maritime, and surface

transportation safety and security." Sec. 343(b) required shippers of cargo loading in a U.S. port (including an ocean transportation intermediary that is a non-vessel-operating common carrier) to submit a complete set of shipping documents within 24 hours after the cargo is delivered to the marine terminal operator, and under no circumstances later than 24 hours prior to departure of the vessel.

The Maritime Transportation Security Act of 2002 (MTSA, P.L. 107–295) amended DHS authority under the Trade Act of 2002 to collect advanced cargo data from importers and exporters and permitted CBP to share the information with other federal agencies.

2. De minimis

The de minimis level, currently $200, refers to the value threshold below which unaccompanied shipments can enter U.S. commerce without the need for formal entry procedures or payment of customs duties. The de minimis level was provided for in P.L. 103–182, and in section 321(a)(2)(c) of the Tariff Act of 1930 (19 U.S.C. 1321(a)(2)(C), as amended).

The exemption is intended to "avoid expense and inconvenience to the Government disproportionate to the amount of revenue that would otherwise be collected." Thus, a goal of the de minimis threshold is to balance the collection of tariff revenue with the administrative costs (to the government) of customs duty collection. The statute also gives the Secretary of the Treasury the ability to raise the de minimis level by regulation.

3. Anti-dumping and countervailing duties (level the playing field legislation)

ANTIDUMPING AND COUNTERVAILING DUTIES

Two major U.S. trade remedies are the antidumping (AD) law, which combats the sale of imported products at less than fair market value, and the countervailing duty (CVD) law, which aims to offset foreign government subsidization of imported goods.

The AD law (19 U.S.C. 1673 et seq.) provides relief to U.S. industries and workers that are "materially injured, or . . . threatened with material injury, or the establishment of an industry in the United States is materially retarded" due to imports sold in the U.S. market at prices that are less than fair market value. The CVD law (19 U.S.C. 1671 et seq.) provides relief to domestic industries that are "materially injured, or . . . threatened with material injury, or the establishment of an industry in the United States is materially retarded" due to imported goods that have been subsidized by a foreign government or public entity, and can therefore be sold at lower prices than similar goods produced in the U.S.

SUBSIDIES AND COUNTERVAILING DUTIES

The first CVD statute was passed as part of the Tariff Act of 1890, but was limited to the protection of American sugar producers. The first general CVD provision appeared in the Tariff Act of 1897 (also known as the Dingley Tariff; Section 7, 55th Congress, Session I, Ch. 11. 1897). This provision authorized the Secretary of the Treasury to investigate and impose duties "whenever any country, dependency, or colony shall pay or bestow, directly or

indirectly, a bounty or grant upon the exportation of any article or merchandise from such country, dependency, or colony . . .".

Prior to 1995, there were two countervailing duty law in force. Section 303 of the Tariff Act of 1930, the earlier of the two laws, applied to countries that were not "under the agreement," or members of the General Agreement on Tariffs and Trade (GATT). This statute was subsequently repealed in section 261(a) of the Uruguay Round Agreements Act (URAA, P.L. 103–465) with the advent of the WTO.

Title VII of the Tariff Act of 1930 (19 U.S.C. 1671ff) describes the CVD law, which applies to all U.S. trading partners. In the statute, a countervailable subsidy is defined as a case in which a government of a country or any public entity within the territory of the country: (1) provides a financial contribution; (2) provides any form of income or price support within the meaning of Article XVI of the GATT 1994; or (3) makes a payment or funding mechanism to provide a financial contribution, or entrusts or directs a private entity to make a financial contribution, if providing the contribution would normally be vested in the government and the practice does not differ in substance from practices normally followed by governments; to a manufacturer, producer, or exporter of merchandise. When a commodity exported into the U.S. is subsidized in this manner and a U.S. industry is "materially injured," "threatened with material injury," or "the establishment . . . is materially retarded," a countervailing duty is imposed "equal to the amount of the net countervailable subsidy" (19 U.S.C. 1671(a)). The relief provided in each case is an additional import duty equal to the subsidy (countervailing duty).

ANTIDUMPING

In the case of dumping, the unfair trade practice consists of "the sale or likely sale of goods at less than fair value" (19 U.S.C. 1677(34)). The relief provided is an additional duty based on the amount of dumping (as calculated, a weighted average dumping margin) placed on the subject imports.

The U.S. AD statute originated in the Emergency Tariff Act of 1921, which allowed for a special "antidumping duty" to be assessed when a foreign producer sold "a class or kind of foreign merchandise" for importation into the U.S. at "less than its fair value." Another AD provision, the Antidumping Act of 1916, imposed criminal penalties for dumping and although there were cases brought under the Act, its provisions were never carried out. The 1916 Act was repealed in December 2004 in response to a WTO dispute settlement determination that the law was in violation of U.S.WTO obligations. The current AD statute, as substantially amended, currently appears in Title VII of the Tariff Act of 1930 (19 U.S.C. 1673ff).

INVESTIGATIONS

Although AD and CVD investigations involve fundamentally different types of unfair trade behavior, the remedies provided (an additional duty offsetting the "dumping margin" in AD cases, or the amount of subsidy in CVD cases) and investigative procedures are similar.

AD and CVD investigations involve a complex, quasi-judicial process conducted by two U.S. agencies:

- The U.S. International Trade Commission (USITC) determines whether or not a U.S. industry has suffered material injury, or the threat thereof; and
- The Office of Enforcement and Compliance at the International Trade Administration of the U.S. Department of Commerce (called the "administering authority" in the statute) determines the existence and amount of dumping or subsidy.

Both agencies conduct investigations on the basis of U.S. statutory authority, agency regulations, precedence established in prior investigations, and case law established in the Court of International Trade (CIT) and other judicial bodies.

4. Automated Commercial Environment (ACE)

General authority for the Automated Commercial Environment (ACE) and the International Trade Data System (below) were provided for in Title VI of the North American Free Trade Agreement Implementation Act (P.L. 103–182), which established the National Customs Automation Program, an automated electronic system for the processing of commercial imports. Expenditures for ACE were first provided in the then-U.S. Customs Service FY2001 appropriations (the Consolidated Appropriations Act, 2001, Public Law 106–554). Subsequently, Section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(4)) created a separate account within the general fund of the Treasury known as the "Customs Commercial and Homeland Security Automation Account," which also provided that $350 million would be deposited into the account (from custom merchandise processing fees) in fiscal years 2003–2005.

ACE is designed to replace the obsolete, mainframe-based Automated Commercial System (ACS) that began operations in 1984, and is still in use for some trade functions. CBP has designated ACE as the automated system that will become the platform for a future "single window" through which importers and exporters will be able to transmit data and coordinate with other Federal trade-participating government agencies regarding shipments of merchandise in an efficient and cost-effective manner.

5. International Trade Data system (ITDS)

Section 411(d) of the Tariff Act of 1930 (19 U.S.C. 1411(d)) provides that the Secretary of Treasury shall oversee the establishment of an electronic system to be known as the "International Trade Data System" (ITDS). The ITDS, along with ACE, is a tool for improving CBP's interagency coordination with its 47 partner government agencies (PGAs). ITDS is an intergovernmental project to coordinate and standardize the collection of trade enforcement data by all federal government agencies that play a role in trade enforcement. The goal is to build a "single window" for the electronic collection and distribution of standard government-wide import and export data for the use of government agencies with a role in trade enforcement, in order to eliminate redundant information requirements. Under section 405 of the Security and Accountability for Every (SAFE) Port Act of 2005 (P.L. 109–347), federal agencies

that require documentation related to the importation or exportation of cargo are required to participate in ACE once the ITDS is fully operational. On February 14, 2014, President Obama issued Executive Order 13659 ("Streamlining the Export/Import Process for America's Businesses"), mandating development and completion of the ITDS by December 31, 2016.

6. Advisory Committee on Commercial Operations of U.S. Customs and Border Protection (COAC)

The Advisory Committee on Commercial Operations of U.S. Customs and Border Protection (COAC) was established by the Omnibus Budget Reconciliation Act of 1987 (Pub. L. No. 100–203; 19 U.S.C. 2071 note). The COAC is administered jointly by the Departments of the Treasury and Homeland Security, and operates under the provisions of the Federal Advisory Committee Act (FACA) (5 U.S.C. App). The COAC is comprised of private sector representatives that advise the Secretaries of the Department of Treasury and DHS on the commercial operations of CBP and related DHS functions. COAC meetings consider issues including global supply chain security and facilitation, CBP modernization and automation, air cargo security, customs broker regulations, trade enforcement, agricultural inspection, and protection of intellectual property rights.

7. Centers of Excellence and Expertise (CEEs)

In August 2012, CBP initiated a test of four Centers of Excellence and Expertise (CEEs or Centers) to serve as industry-specific single points of post-entry processing for certain businesses enrolled in the C–TPAT and ISA trusted trader programs (77 Federal Register 50248, August 28, 2012; 78 Federal Register 20345, April 4, 2013; 79 Federal Register 13322, March 10, 2014). The Centers are staffed with CBP employees who facilitate trade by providing account management functions, and are designed as "one-stop-shops" to align customs practices with the demands of modern business and to facilitate trade in the targeted industries. CBP's integrated staff in the Centers process entry summaries, post-entry amendment and correction reviews, protests, and other administrative work. The Centers were designed so that the industries would receive fewer cargo delays, reduce costs, and enjoy greater predictability, while CBP would be able to shift its emphasis at the POEs to address higher-risk shipments and focus on trade enforcement issues. The Centers also support improved information sharing between industry representatives and CBP staff to lead to more focused trade enforcement efforts.

The 10 CEEs currently operating are:

- Electronics in Los Angeles;
- Pharmaceuticals, Health and Chemicals in New York;
- Automotive and Aerospace in Detroit;
- Petroleum, Natural Gas, and Minerals in Houston;
- Apparel, Footwear, and Textiles in San Francisco;
- Agriculture and Prepared Products in Miami;
- Consumer Products and Mass Merchandising in Atlanta;
- Industrial and Manufacturing Materials in Buffalo;

- Base Metals in Chicago; and
- Machinery in Laredo.

8. Commercial Targeting and National Targeting Analysis Groups (NTAGs)

The National Targeting and Analysis Groups (NTAGs) are the primary national trade targeting assets for CBP. NTAGs provide in-depth risk analysis for CBP's Priority Trade Issues (PTIs), including Intellectual Property Rights (IPR) and Antidumping and Countervailing Duty (AD/CVD). The NTAGs work in concert with the Centers of Excellence and Expertise (CEE), and the Cargo National Targeting Center (NTC-C) Tactical Trade Targeting Unit (T3U), to enhance trade targeting expertise. These entities work with the entire cycle of trade fraud enforcement, from information intake, analysis, targeting, investigative case support, and operational assessments.

9. Import Health and Safety

IMPORT HEALTH AND SAFETY

CBP collaborates at U.S. POEs with many federal agencies to enforce health and safety laws that prevent unsafe products from entering the United States. CBP is provided this authority through the Tariff Act of 1930, the Trade Act of 2002, and the Security and Accountability for Every (SAFE) Port Act of 2006, and corresponding CBP regulations.

CBP exercises its regulatory authority to require detailed advance electronic cargo information on arriving goods. 19 U.S.C. 1484 gives CBP the authority to enforce the legal requirements for the entry of merchandise into the United States, and 19 U.S.C. 1499 and other statutes provide general inspection and examination authorities. CBP samples and holds merchandise on behalf of other PGAs (for example, the Food & Drug Administration and the Consumer Product Safety Commission) that have specific authority to determine the admissibility of these products. CBP exercises enforcement authority using bonding procedures as permitted by the general authority under 19 U.S.C. 1623. CBP also has authority under the Tariff Act of 1930, particularly 19 U.S.C. 1595a(c) to seize merchandise that is imported in violation of any health, safety or conservation prohibition.

CBP actively engages in interagency import safety efforts by promoting risk management strategies and developing uniform enforcement strategies, such as detention, seizure, and destruction policies. However, there is no statutory mechanism for agencies of the Federal government to coordinate, as a whole, on ensuring the safety of merchandise imported into the United States and focus on shipments that are higher risk.

10. Intellectual property rights enforcement at the border

OVERVIEW

The protection and enforcement of intellectual property rights (IPR)—such as patents, copyrights, trademarks, and trade secrets—is an important component of U.S. trade policy, due to the significant role of IPR in the U.S. economy and the potentially neg-

ative commercial, health, safety, and security consequences of counterfeiting and piracy. Multiple federal agencies and interagency coordinating bodies are involved in U.S. efforts to protect and enforce IPR. Congress has an interest in the effectiveness of U.S. IPR enforcement efforts, including with respect to the level and allocation of federal resources, authorities of agencies, and the coordination of activities.

IPR is enforced at U.S. borders through seizures of counterfeit and pirated goods, investigations, and prosecutions. DHS, through seizures of counterfeit and pirated goods by CBP and investigations by ICE of suspected IP infringement, plays a key role in such efforts. In FY2014, the number of IPR seizures at the U.S. border totaled 23,140 of commodities valued at $1.2 billion, with China and Hong Kong ranking as the two largest source economies for seizures by value.

IPR infringement in the past primarily constituted of counterfeiting and piracy of physical goods, but in recent years, according to many sources, including the Federal Bureau of Investigation and USTR's Special 301 Report, there has been a growing amount of piracy taking place through digital trade. Digital trade presents new challenges and opportunities in terms of IPR protection and enforcement.

RESOURCES

CBP's Office of International Trade is responsible for the IPR enforcement program. According to DHS' 2016 budget justification, "CBP's strategy to enforce IPR is based on the pillars of facilitation, enforcement, and deterrence." CBP partners with the private sector in an effort to transform IPR risk assessment by identifying low-risk shipments. CBP conducted 81 IPR "Field Training" sessions for their personnel in FY2014.

In FY2014, CBP had 19,580 full-time equivalent CBP officers assigned to its POEs. For FY2016, the agency is requesting a total of 20,656 full-time equivalent CBP officers, with 2,371 of that total assigned to "Trade and Revenue" positions.

COORDINATION

DHS houses the National Intellectual Property Rights Coordination Center (IPR Center), a task force for optimizing the roles and law enforcement activities of member agencies and enhancing government-industry partnerships to support IPR enforcement initiatives. The IPR Center's mission is "to ensure national security by protecting the public's health and safety, the U.S. economy, and our war fighters, and to stop predatory and unfair trade practices that threaten the global economy." Established by ICE in 2002, the IPR Center's role is to improve and coordinate federal intellectual property functions to more effectively combat IPR-infringing products. The IPR Center arose out of efforts by the National Security Council's Special Coordination Group on Intellectual Property Rights and Trade Related Crime to implement Presidential Decision Directive 42, issued in 1995, concerning international crime. The IPR Center brings together, in a task force setting, 23 partner agencies, consisting of 19 federal agencies, Interpol, Europol, and the governments of Canada and Mexico. It is led by the ICE Homeland Security Investigations (HSI) Director, with Deputy Directors

from HSI and CBP. The IPR Center's approach focuses on investigations, interdiction, and outreach and training to address counterfeiting and piracy. In FY2014, appropriations for ICE provided that not less than $10 million would be available for investigations of IPR violations, including for the operations of the IPR Center. In FY2014, IPR Center-led interagency collaboration resulted in 683 arrests, with 454 indictments and 461 convictions.

11. Bulk residue controversy

When instruments of international traffic (e.g., cargo container) return to the United States, they sometimes hold residue from their exported product. Prior to 2009, instruments of international traffic (IIT) containing residue could return to the United States under the IIT exemption of the Tariff Act of 1930 (i.e., are exempt from manifested and entry requirements). In 2009 CBP issued HQ ruling H026715 that requires IITs containing residue to be manifested and entered. This ruling was significantly problematic for private sector stakeholders due to the difficulty and potential expense that would be incurred in adhering to manifest and entry requirements for residue.

In response to private sector concerns, CBP created a working group with private sector stakeholders in 2010 to identify the least disruptive methods to enforce HQ ruling H026715. In November, 2013 CBP announced the launch of the Residue Cargo Pilot program, but it and its start date has been pushed back indefinitely.

12. Currency Manipulation

The Committee is concerned that foreign countries, have been using policies to undervalue their currencies in order to gain unfair trade advantages over the United States or prevent effective balance of payments adjustments. In the view of the Committee, the currently tools available to the United States to address the challenges posed by currency manipulation could be enhanced.

Surveillance of foreign exchange rate policies of major U.S. trading partners is undertaken by the Department of the Treasury, as required by law; by multilateral institutions like the International Monetary Fund (IMF) and the WTO; and in various international fora such as G–20 meetings of finance ministers and central bank governors, the G–7, and the U.S.-China Strategic and Economic Dialogue (S&ED).

The Omnibus Trade and Competitiveness Act of 1988 (the "Act") requires that the Secretary of the Treasury report, on a semiannual basis, on international economic and exchange rate policies of our major trading partners. According to Section 3004 of the Act, the report must consider "whether countries manipulate the rate of exchange between their currency and the United States dollar for purposes of preventing effective balance of payments adjustment or gaining unfair advantage in international trade." The Treasury Department most recently cited China, in 1994, as a country for currency manipulation under the terms of the Act. Successive Administrations have stressed that they address the issue in bilateral and multilateral discussions, including the S&ED with China, the G–7, and the G–20.

Article IV ("Obligations Regarding Exchange Arrangements") of the IMF's Articles of Agreement identifies that "each member shall avoid manipulating exchange rates or the international monetary system in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members." The IMF regularly monitors bilateral and multilateral exchange rate measures, and counsels member countries when evidence is suggestive of misalignments with fundamentals, though tying exchange rates to macroeconomic fundamentals has proven to be a notoriously difficult undertaking. Such difficulty is one of the reasons why detection of misalignments is quantitatively challenging. Moreover, deviations between a country's foreign exchange rate policies and a hypothetically pure "freely floating exchange rate" regime depend, in addition to central bank actions and macroeconomic fundamentals, on the extent to which a country controls and restricts capital outflows and inflows—a consideration often overlooked in "currency manipulation" discussions.

The World Trade Organization can levy trade sanctions or pursue resolution of trade disputes between WTO member countries through WTO dispute settlement mechanisms. Trade sanctions based on "currency manipulation" through WTO processes would be cumbersome, however, given measurement and exchange-rate modeling difficulties.

In its most recent (October 15, 2014) Report to Congress on International Economic and Exchange Rate Policies, issued by the U.S. Department of the Treasury's Office of International Affairs, Treasury concluded that no major trading partner of the United States met the standard of manipulating the rate of exchange between their currency and the United States dollar for purposes of preventing effective balance of payments adjustments or gaining unfair competitive advantage in international trade as identified in Section 3004 of the Act during the period covered in the Report.

Nonetheless, Treasury continues to closely monitor developments in economies where exchange rate adjustment is incomplete and push for comprehensive adherence to all G7 and G20 commitments. According to the Treasury Report: "These include the recent G–7 commitments to orient fiscal and monetary policies towards domestic objectives using domestic instruments and to not target exchange rates. They also include the G–20 commitments to move more rapidly toward market-determined exchange rate systems and exchange rate flexibility, to avoid persistent exchange rate misalignments, to refrain from competitive devaluation, and to not target exchange rates for competitive purposes. Treasury will continue to monitor closely exchange rate developments in all the economies covered in this report, and press for further policy changes that yield greater exchange rate flexibility, greater transparency on intervention, a more level playing field, and support for strong, sustainable and balanced global growth."

CONGRESSIONAL ACTION

In recent Congresses, Senators and Members of the House of Representative introduced legislation intended to address instances of "currency manipulation" undertaken for purposes of unfair trade advantage or prevention of balance of payments adjustment. Examples include: The Currency Reform for Fair Trade Act (H.R. 2378),

which passed in the House in the 11th Congress; and The Currency Exchange Rate Oversight Reform Act of 2011 (S. 1619), which passed in the Senate in the 112th Congress. Neither bill became law. Those bills, among other provisions, would have specified the definition of a countervailable subsidy (a subsidy eligible to be offset through higher import duties) to include some measure of the benefit conferred on imports into the United States from countries with undervalued currencies.

13. Drawback simplification

Drawback is defined in the U.S. Code of Federal Regulations as "the refund or remission, in whole or in part, of a customs duty, fee, or internal revenue tax which was imposed on imported merchandise under Federal law because of its importation, and the refund of internal revenue taxes paid on domestic alcohol as prescribed in 19 U.S.C. 1313(d)." The purpose of customs duty drawback is to permit U.S.-made products to compete more effectively in world markets by enabling U.S. manufacturers and importers to select the most advantageous sources for raw materials and components without regard to duties in order to save production costs. Thus, drawback also encourages domestic production.

Generally speaking, the term refers to a refund of 99 percent of duties and/or Internal Revenue taxes paid on certain imported merchandise (excluding antidumping or countervailing duties, harbor maintenance fees, and merchandise processing fees) entering the United States, provided the article is exported or destroyed under CBP supervision. Drawback of duty and some taxes is provided in U.S. law by 19 U.S.C. 1313, while refunds of certain excise taxes also administered by CBP are covered by 26 U.S.C. 5062.

14. Enforce Act

CBP has not adequately investigated allegations of AD/CVD orders and has had considerable difficulty collecting the actual amount of duties owed on merchandise subject to AD and CVD action. This issue has been the focus of several congressional hearings.

Potential duty shortfalls are important to U.S. producers benefiting from AD or CVD orders in two ways. First, if an AD investigation was completed before the repeal of the Continued Dumping and Subsidy Offset Act (CDSOA) in 2005–2007, producers of U.S. import-competing merchandise may be eligible for CDSOA disbursements of duties under certain conditions. Second, shortfalls in duty collections diminish the effect of an AD or CVD order because the adversely affected U.S. industry involved does not receive the full protection of the additional duty. As a result, the domestic industry may continue to be injured by the anti-competitive practices of the foreign supplier even after an order has been imposed.

Shortfalls in AD/CV duty collection have also significantly impacted U.S. revenue. In 2011 testimony before the Subcommittee on the Department of Homeland Security of the Senate Committee on Appropriations, the U.S. Government Accountability Office (GAO) estimated that from FY 2001 to FY 2010 over $1 billion in AD/CV duties were uncollected. According to CBP data from FY

2011 to FY 2013, the amount of uncollected revenue has increased by an additional $177.6 million.

15. Section 301 of the Trade Act of 1974 (as Amended)

Chapter 1 of title III (sections 301–310) of the Trade Act of 1974 (P.L. 93–618; referred to collectively as "Section 301"), as amended, provides the authority and procedures to enforce U.S. rights under international trade agreements and to respond to certain unfair foreign practices. Section 301 is the principal statutory authority under which the United States may impose trade sanctions on foreign countries that either violate trade agreements or otherwise maintain laws or practices that are unjustifiable and restrict U.S. commerce. When a Section 301 investigation involves an alleged violation of a trade agreement, such as agreements under the WTO or the North American Free Trade Agreement (NAFTA), the USTR must follow the consultation and dispute settlement procedures set out in that agreement. The 1988 Omnibus Trade and Competitiveness Act (P.L. 100–418) strengthened Section 301 by creating "Special 301" provisions, which require the USTR to conduct an annual review of foreign countries' intellectual property rights (IPR) protection policies and practices. Special 301 directs USTR to identify countries that deny adequate protection of IPR, or restrict IPR-related products, and to initiate Section 301 procedures against countries whose practices are considered to be the most serious or harmful—"priority foreign countries." If an agreement is not reached within a certain timeframe, the USTR must determine if trade sanctions should be imposed. As part of the Special 301 Report, USTR has created a Priority Watch List and Watch List to identify countries with particular problems with respect to IPR protection, enforcement, or market access for persons relying on IPR. Countries placed on the Priority Watch List have more significant problems in these areas.

Section 301 provides the domestic counterpart to the WTO consultation and dispute settlement procedures. It authorizes the USTR to impose retaliatory measures to remedy an uncorrected foreign practice, some of which may involve suspending an obligation under a trade agreement—for example, imposing a tariff increase on a product in excess of the rate negotiated in the WTO or the "bound" rate. The USTR may terminate a Section 301 case if the dispute is settled, but, under section 306 of the act, the USTR must monitor foreign compliance and may take further retaliatory action if compliance measures are unsatisfactory. While Section 301 also permits the USTR to initiate an investigation on its own motion, it is not necessary for the USTR to invoke Section 301 in order to initiate a dispute. Nevertheless, the authorities in Section 301 are available to the USTR if it decides to impose sanctions in a trade dispute that it initiated earlier. The USTR administers the statutory procedures through an interagency committee.

Under Section 301, if the USTR determines that a foreign government's act, policy or practice violates or is inconsistent with a trade agreement, or is unjustifiable and burdens or restricts U.S. commerce, then action by the USTR is mandatory, subject to the specific direction, if any, of the President to enforce the trade agreement rights or to obtain the elimination of the act, policy, or practice. If the USTR determines that the act, policy, or practice

is unreasonable or discriminatory and burdens or restricts U.S. commerce and actions by the United States is appropriate, then the USTR has discretionary authority to take appropriate and feasible action, subject to the specific direction, if any, of the President, to obtain the elimination of the act, policy, or practice.

16. Interagency Trade Enforcement Center

The enforcement of U.S. trade rights under international trade agreements and enforcement of U.S. trade laws has been one of the key issues in the development of trade policy in recent years. On February 28, 2012, President Barack Obama signed Executive Order 13601 establishing the Interagency Trade Enforcement Center (ITEC) to advance U.S. foreign trade policy through strengthened and coordinated enforcement of U.S. trade rights. The goal was to take an interagency approach to monitoring and enforcing U.S. trade rights around the world by using expertise from across the federal government. The ITEC is led by a Director designated by the U.S. Trade Representative and a Deputy Director designated by the Secretary of Commerce. The ITEC coordinates interagency trade enforcement matters among USTR and the Departments of Commerce, State, Treasury, Justice, Agriculture, and Homeland Security, as well as the Office of the Director of National Intelligence, and other agencies that the President or USTR may designate. Funding for the ITEC is appropriated through the International Trade Administration under the Commerce, Justice, Science, and Related Agencies appropriations accounts. ITA works closely with the ITEC to identify issues and develop information in areas of economic importance to U.S. industries.

17. Trade Enforcement

The Office of the U.S. Trade Representative (USTR), in coordination with other federal agencies, enforces U.S. trade rights and benefits under international agreements through consultations, negotiations, and litigation in formal dispute settlement proceedings. USTR coordinates the Federal government's activities in identifying, monitoring, enforcing, and resolving the full range of international trade issues to assure that American workers, farmers, ranchers, and businesses receive the maximum benefit under international trade agreements of the United States. Those agreements include multilateral agreements such as those adopted at the creation of the WTO, regional agreements such as the North American Free Trade Agreement (NAFTA), and bilateral agreements such as the various free trade agreements (FTAs).

18. Miscellaneous Tariff bill

U.S. importers often request that Members of Congress introduce bills seeking to temporarily suspend or reduce tariffs on certain imports. The rationale for these requests, in general, is that they help domestic producers of downstream goods reduce costs, thus making their products more competitive. In turn, these cost reductions may be passed on to the consumer.

In recent congressional practice, the Senate Finance and House Ways and Means Committees have combined individual duty suspension bills and other technical trade provisions into larger pieces

of legislation known as miscellaneous tariff bills (MTBs). Before inclusion in an MTB, the individual bills are reviewed by the trade subcommittees of the relevant committees, the U.S. International Trade Commission (USITC), and executive branch agencies to ensure that they are noncontroversial (generally, that no domestic producer, Member, or government agency objects), relatively revenue-neutral (revenue loss due to the duty suspension of no more than $500,000 per product), and are able to be administered CBP.

In the past, duty suspensions in MTBs have only been available for a limited time (generally three years from the date of enactment), and if no subsequent MTB legislation is passed, the duty-free or reduced duty status of the products expires. Expired duty suspensions must be re-introduced to be included in new MTB legislation, and in most cases, the favorable duty status is not retroactively renewed.

The last enacted MTB expired on December 31, 2012. This MTB, the United States Manufacturing Enhancement Act of 2010 (P.L. 111–227) suspended entirely or reduced duties on over 600 products. Since legislative attempts to pass an additional MTB were not successful, duties must be paid on these products, most of which are inputs in various U.S. manufactured products.

19. Consumptive Demand

Prohibition of goods made with forced labor has a long history in the United States. Congress first prohibited importation of goods made with prison labor under the McKinley Tariff Act of 1890 (Chapter 1244, 26 Stat. 567, Sec. 51). Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) expanded the categories of prohibited labor to include convict labor, forced labor, and indentured labor under penal sanctions. It also added an exception that permitted the importation of goods made with forced labor when domestic production of those goods was not sufficient to meet the consumptive demand requirements of the United States.

Section 307 defines "forced labor" as having two key components: (a) it is involuntary; and (b) it carries a threat of penalty for its nonperformance. It also provides that the term "forced labor and/or indentured labor" includes forced or indentured child labor. The provision does not specify a minimum content requirement, and therefore encompasses goods with even minimal amounts of content produced with forced or indentured labor. The Secretary of the Treasury is authorized and directed by the statute to prescribe such regulations as may be necessary for the enforcement of the provision, and under those regulations CBP is the lead agency responsible for enforcement of Section 307.

II. GENERAL DESCRIPTION OF THE BILL

Section 1—Short Title; Table of Contents

This section sets forth the short title of this Act as the Trade Facilitation and Trade Enforcement Act of 2015. Section 1 also provides the table of contents.

Section 2—Definitions

This section defines the terms "Automated Commercial Environment," "Commissioner," "customs and trade laws of the United

States," "private sector entity," "trade enforcement," and "trade facilitation."

TITLE I—TRADE FACILITATION AND TRADE ENFORCEMENT

Section 101—Improving Partnership Programs

Section 101(a) requires the Commissioner to ensure that all Agency partnership programs provide trade benefits to participants.

Section 101(b) requires the Commissioner in developing and operating all partnership programs to (1) consult with the private sector, the public, and other Federal agencies, when appropriate, to ensure that participants in those programs receive commercially significant and measurable trade benefits in all such programs, including providing pre-clearance of merchandise for qualified persons that demonstrate the highest levels of compliance with customs and trade laws of the United States, regulations of CBP, and other requirements the Commissioner determines to be necessary; (2) ensure an integrated and transparent system of trade benefits and compliance requirements for all CBP partnership programs; (3) consider consolidating Agency partnership programs to support the objectives of such programs, increase participation, and enhance the benefits provided to participants; and (4) coordinate with the Director of ICE and other Federal agencies with authority to detain and release merchandise entering the United States to (A) ensure coordination in the release of such merchandise through the Automated Commercial Environment (ACE) and the International Trade Data System (ITDS), (B) ensure that partnership programs of those agencies are compatible with CBP's partnership programs, (C) develop criteria for authorizing the release, on an expedited basis, of merchandise for which documentation is required from one or more of those agencies to clear or license the merchandise for entry into the United States, and (D) to create pathways, within and among the appropriate Federal Agencies, for qualified persons that demonstrate the highest levels of compliance to receive immediate clearance absent information that a transaction may pose a national security or compliance threat; and (5) ensure that trade benefits are provided to participants in partnership programs.

Section 101(c) requires the Commissioner to submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, no later than 180 days after enactment and on December 31 of each year thereafter, containing (1) an identification of each partnership program; (2) for each such program (A) participation requirements, (B) the commercially significant and measurable trade benefits provided to participants in the program, (C) the number of participants in the program, and (D) for programs that have multiple tiers of participation, the number of participants in each tier; (3) the number of participants enrolled in more than one program; (4) an assessment of the effectiveness of each program in advancing the security, trade enforcement, and trade facilitation missions of CBP; (5) a summary of CBP's efforts to coordinate with other federal agencies with authority to detain and release merchandise entering the United States to ensure that partnership programs of those agencies are compatible with CBP's partnership programs; (6) a sum-

mary of the criteria developed with these agencies for authorizing the release, on an expedited basis, of merchandise for which documentation is required for one or more of those agencies to clear or license the merchandise for entry into the United States; (7) a summary of CBP's efforts to work with private sector entities and the public to develop and improve partnership programs; (8) a description of efforts taken by CBP to make private sector entities aware of partnership programs; and (9) a summary of plans, targets, and goals of CBP with respect to such programs over the two years following the submission of the report.

Current law provides for voluntary government-private sector programs, such as the Customs-Trade Partnership Against Terrorism (C–TPAT) and Importer Self-Assessment (ISA) programs, to strengthen and improve the overall security of the international supply chain and protect the revenue of the United States. It is the view of this Committee that CBP has not adequately worked with the private sector and other government agencies to provide commercially significant and measurable trade benefits for private sector entities participating in government-private sector partnership programs. This section is intended to rectify these deficiencies by requiring CBP to ensure such programs provide benefits and to more effectively work with the private sector and other Federal agencies.

Section 102—Report on effectiveness of trade enforcement activities

This section requires the Comptroller General of the United States to submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than one year after the enactment of this Act a report on the effectiveness of trade enforcement activities of CBP that shall include (1) a description of the use of resources; results of audits and verification; targeting; and training of CBP personnel; (2) a description of trade enforcement activities to address undervaluation; transshipment; legitimacy of entries making entry; protection of revenues, fraud prevention and detection, and penalties, including international misclassification, inadequate bonding, and other misrepresentations, and (3) a description of trade enforcement activities with respect to the priority trade issues, including methodologies used in such enforcement of activities, recommendations for improving such enforcement activities, and a description of the implementation of previous recommendations for improving such enforcement activities.

It is the view of this Committee that the report required under this section should provide Congress with sufficient information to determine the effectiveness of resources used to enforce the customs and trade laws of the United States. Furthermore, the information reported should be in sufficient detail to allow Congress, at its discretion, to reallocate agency resources to the most effective means of enforcing the customs and trade laws of the United States.

Section 103—Priorities and performance standards for customs modernization, trade facilitation, and trade enforcement functions and programs

Section 103(a) requires the Commissioner, in consultation with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives to establish priorities and performance standards to measure the development and levels of achievement of customs modernization, trade facilitation and trade enforcement functions and programs described in subsection (b). Such priorities and performance standards, shall, at a minimum, include priorities and standards relating to efficiency, outcome, output, and other types of applicable measures.

Section 103(b) provides that the functions and programs referred to in subsection (a) are: (1) the Automated Commercial Environment (ACE); (2) each priority trade issue described in section 111(a) of this Act: agricultural programs, antidumping and countervailing duties, import safety, intellectual property rights, revenue, textiles and wearing apparel, and trade agreements and preference programs; (3) the Centers of Excellence and Expertise described in section 110 of this Act; (4) Drawback for exported merchandise under section 313 of the Tariff Act of 1930 (19 U.S.C. 1313), as amended by section 906 of this Act; (5) transactions relating to imported merchandise in bond; (6) collection of countervailing duties; (7) the expedited clearance of cargo; (8) the issuance of regulations and rulings; and (9) the issuance of Regulatory Audit Reports.

Section 103(c) requires consultations and notification to Congress. It provides that consultations required under (a)(1) shall occur, at a minimum, on an annual basis. This section provides that the Commissioner shall notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of any changes to the priorities referred to in subsection (a) not later than 30 days before such changes are to take effect.

Past efforts by CBP to modernize and to improve trade facilitation and enforcement and other functions have not been conducted in a consistent or efficient manner. Recent efforts by CBP have improved. However, it is the view of this Committee that these efforts could be further improved and sustained by the requirements of this section. This section requires the Commissioner, in consultation with the relevant committees, to establish priorities and performance standards to measure the development and levels of achievement of customs modernization, trade facilitation, trade enforcement functions and programs specified in this section. In addition to consultations, the Commissioner shall notify the relevant committees of any changes in the aforementioned priorities not later than 30 days before such changes are to take effect. The consultations required in this section shall occur, at a minimum, on an annual basis.

Section 104—Educational seminars to improve efforts to classify and appraise imported articles, to improve trade enforcement efforts, and to otherwise facilitate legitimate international trade

Section 104(a) requires the Commissioner and Director, on a fiscal year basis, to carry out educational seminars to (1) improve the ability of CBP to classify and appraise articles imported into the

United States; (2) improve the trade enforcement efforts of CBP and ICE personnel; and (3) otherwise improve the ability and effectiveness of CBP and ICE personnel to facilitate legitimate international trade.

Section 104(b) provides that the Commissioner, the Director, and interested private sector parties, selected under subsection (c), shall provide instruction and related instructional materials at each educational seminar to CBP and, as appropriate, ICE personnel on the following: (1) conducting physical inspection of an article imported into the United States; (2) 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 is accurate; (3) customs valuation; and (4) industry supply chains. The Commissioner, the Director, and interested private sector parties, selected under subsection (c), shall provide opportunities to enhance enforcement of (1) collection of countervailing and antidumping duties; (2) evasion of duties on imports of textiles; (3) protection of intellectual property rights; and (4) enforcement of child labor laws.

Section 104(c) provides that the Commissioner shall establish a process to solicit, evaluate, and select interested parties in the private sector for purposes of assisting in providing instruction and related instructional materials described in subsection (b) at each educational seminar under this section. Selection criteria shall include: (1) availability and usefulness; (2) the volume, value and incidence of mislabeling or misidentification of origin of imported articles; and (3) other appropriate criteria established by the Commissioner.

Section 104(d) provides that the Commissioner shall give due consideration to carrying out an educational seminar under this section to improve the ability of CBP personnel to enforce a countervailing or antidumping duty order upon the request of a petitioner in an action underlying a countervailing or antidumping duty order.

Section 104(e) provides that the Commissioner and the Director shall establish performance standards to measure the development of achievement of educational seminars under this section.

Section 104(f) provides that beginning September 30, 2016, the Commissioner and the Director shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives an annual report on the effectiveness of educational seminars under this section.

Section 104(g) defines key terms.

Section 105—Joint strategic plan

Section 105(a) requires the Commissioner and Director to create and submit to the Committees a biennial joint strategic plan.

Section 105(b) requires the joint strategic plan to contain a comprehensive multi-year plan for trade enforcement and trade facilitation that includes: (1) a summary of action taken to improve trade enforcement and trade facilitation, including specific performance metrics to evaluate progress over a 2-year period; (2) a statement of the objectives and plans to further improve trade enforcement and trade facilitation; (3) a specific identification of priority trade issues described in section 111(a) of this Act that can be ad-

dressed in order to enhance trade enforcement and trade facilitation and a description of strategies and plans for addressing each issue; (4) a description of efforts made to improve consultation and coordination among and within Federal agencies regarding trade enforcement and trade facilitation; (5) a description of training that has occurred to date within CBP and ICE to improve trade enforcement and trade facilitation; (6) a description of efforts to work with international organizations to enhance trade facilitation and trade enforcement; (7) a description of organizational benchmarks for optimizing staffing and wait times at ports of entry; (8) a specific identification of any domestic or international best practices that may further improve trade enforcement and trade facilitation; (9) any legislative recommendations to further improve trade enforcement and trade facilitation; and (10) a description of efforts made to improve consultation and coordination with the private sector to enhance trade enforcement and trade facilitation.

Section 105(c) requires the Commissioner and the Director to consult with relevant Federal agencies, including: the Department of Treasury, Department of Agriculture, Department of Commerce, Department of Justice, Department of the Interior, Department of Health and Human Services, Food and Drug Administration, Consumer Product Safety Commission, Office of the United States Trade Representative, as well as the Customs Operations Advisory Committee (COAC) when developing the joint strategic plan.

Section 105(d) requires the joint strategic plan to be submitted in unclassified form, but may include a classified annex.

It is the view of the Committee that CBP and ICE do not adequately set strategic plans and measure their progress in adhering to goals that have been set. This section will address this problem by requiring both agencies to work together in order to address this identified deficiency in both agencies. It is the sense of this Committee that the agencies should not only focus on short-term goals that are easily attainable, but should also focus on goals that may only be achievable over the long-term. In both cases, the agencies must determine ways to measure their progress in meeting these goals and articulate their progress.

When providing a description of organizational benchmarks for optimizing staffing and wait times at ports of entry, it is the view of the Committee that CBP should also provide a description of progress made to standardize, automate, and publically report wait times and wait time collection practices at ports of entry. Additionally, when providing legislative recommendations to further improve trade enforcement and trade facilitation, it is the view of the Committee that CBP should submit the projected future funding needs for Federal land border ports of entry projects, as required by Division D of the Consolidated Appropriations Act, 2012 (PL 112–74).

Section 106—Automated commercial environment

Section 106(a) amends section 13031(f)(4) of the Consolidated Omnibus Budget Reconciliation Act of 1985 by directing authorized appropriations of $153,736,000 for each of fiscal years 2016 and 2018 to complete the development and implementation of ACE.

Section 106(b) amends section 311(b)(3) of the Customs Border Security Act of 2002 to require the Commissioner to submit to the

Senate Finance and Appropriations Committees, and House Ways and Means and Appropriations Committees, a report by December 31, 2016 detailing (1) CBP's incorporation of all core trade processing capabilities into ACT; (2) CBP's remaining priorities for processing entry summary data elements, cargo manifest data elements, cargo financial data elements, and exports elements in the ACE computer system and plans for implementing these remaining priorities; (4) the components of the National Customs Automation Program (NCAP) that have not been implemented; and (5) any additional components of NCAP initiated by the Commissioner to complete the development, establishment, and implementation of the ACE computer system. The Commissioner must also provide an updated report on September 30, 2017 which also evaluates the effectiveness of the implementation of the ACE computer system and details the percentage of trade processed in the ACE every month since September 30, 2016.

Section 106(c) requires the Government Accountability Office to provide to the Senate Finance and Appropriations Committees, and House Ways and Means and Appropriations Committees, not later than December 31, 2017, a report assessing the progress of other Federal agencies in accessing and utilizing ACE and assessing the potential cost savings to the United States Government and importers and exporters and the potential benefits to the enforcement of the customs and trade laws of the United States if elements in section 106(b) are implemented.

The Committee recognizes the dramatic improvement in the development of ACE once the agile development methodology was initiated. The Committee continues to support the development of ACE and the use of ACE by other Federal agencies.

Section 107—International Trade Data System

This section amends section 411(d) of the Tariff Act of 1930 by inserting a new paragraph that requires the Secretary of the Treasury to work with the heads of Federal agencies participating in the International Trade Data System (ITDS) to ensure the agencies (1) develop and maintain the necessary information technology to support ITDS and submit all data to the ITDS electronically; (2) enter into a memorandum of understanding to provide for the information sharing between the agency and CBP necessary for the operation and maintenance of the ITDS; (3) no later than June 30, 2016, identify and transmit to the Commissioner the admissibility criteria and data elements required by the agency to authorize the release of cargo by CBP for incorporation into ACE; and (4) not later than December 31, 2016, utilize the ITDS as the primary means of receiving from users the standard set of data and other relevant documentation, exclusive of applications for permits, licenses, or certification required for the release of imported cargo and clearance of cargo for export.

The Committee appreciates the on-going efforts to effectively implement ITDS and supports the completion of ITDS not later than December 31, 2016 in order to improve trade facilitation and enforcement via the "single window" concept. The completion of ITDS is necessary in order to initiate the "single window" concept that will allow for the electronic collection and distribution of standard government-wide import and export data for the use of government

agencies with a role in trade enforcement, in order to eliminate redundant information requirements.

Section 108—Consultations with respect to mutual recognition arrangements

This section requires as a negotiating objective for any mutual recognition arrangement with a foreign country regarding partnership programs to ensure compatibility with CBP partnership programs and to enhance trade facilitation and trade enforcement. It also requires the Secretary of Homeland Security to consult with the relevant committees not later than 30 days before initiating negotiations to enter into any such arrangement and not later than 30 days before entering into any such arrangement.

The Committee recognizes the importance of trusted partnership programs in differentiating between imports that require additional inspections because they pose a high-risk to the economic or physical security of the United States and those that do not in order to facilitate the efficient movement of trade. The Committee finds, however, that too often companies enrolled in a CBP trusted partnership program have to needlessly expend additional resources to comply with foreign nations' partnership program requirements that do not greatly differ from partnership program requirements administered by CBP. Accordingly, the Committee included a negotiating objective for any mutual recognition arrangement with a foreign country regarding partnership programs to ensure compatibility with CBP partnership programs in order to enhance trade facilitation and trade enforcement while reducing the needless expense of CBP trusted partners in joining foreign partnership programs.

Section 109—Commercial Customs Operations Advisory Committee

Section 109(a) requires the Secretaries of Treasury and Homeland Security to jointly establish the COAC by no later than 60 days after the enactment of this Act.

Section 109(b) requires that the COAC be comprised of (1) 20 appointed individuals from the private sector; (2) the Commissioner and the Assistant Secretary of Treasury for Tax Policy, who shall co-chair meetings; and (3) the Assistant Secretary for Policy of the Department of Homeland Security and ICE Director, who shall serve as deputy co-chairs of meetings. Private sector individuals are representative of individuals and firms affected by the commercial operations of CBP, without regard to political affiliation, and may be appointed to multiple terms of three years, but may not serve more than two terms sequentially.

Section 109(c) requires the COAC to (1) advise the Secretaries of Treasury and Homeland Security on all matters involving the commercial operations of CBP; (2) provide recommendations to the Secretaries on improvements to CBP's commercial operations; and (3) collaborate in developing the agenda for COAC meetings; and (4) perform other functions relating to the commercial operations of CBP as prescribed by law or as directed by the Secretaries.

Section 109(d) provides that the COAC shall meet at the call of the Secretaries of Treasury and Homeland Security or at the call of at least two-thirds of the COAC. membership. The COAC must meet at least four times each year, and the meetings must be open

unless the Secretaries determine that a meeting will include matters that cannot be disclosed without seriously damaging policies or other matters affecting the commercial operations of CBP and the investigations of ICE.

Section 109(e) requires the COAC to submit annual reports to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives that describe the COAC's activities and provide recommendations regarding the commercial operations of CBP.

Section 109(f) subjects the COAC to the provisions of the Federal Advisory Committee Act, except section 14(a)(2) (5 U.S.C. App.; relating to the termination of advisory committees).

Section 109(g) makes a conforming amendment to repeal section 9503(c) of the Omnibus Budget Reconciliation Act of 1987 (19 U.S.C. 2071 note). Additionally, any reference in law to the Advisory Committee on Commercial Operations of the United States Customs Services shall be deemed in referenced to COAC.

Section 110—Centers of Excellence and Expertise

Section 110(a) requires the Commissioner, in consultation with the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and the COAC to develop and implement Centers of Excellence and Expertise (CEEs) throughout CBP that (1) enhance the economic competiveness of the United States by consistently enforcing the laws and regulations of the United States at all ports of entry and facilitating the flow of legitimate trade through increasing industry-based knowledge; (2) improve enforcement efforts, including priority trade issues described in 111(a) of this Act; (3) build upon the expertise of CBP in particular industry operations, supply chains, and compliance requirements; (4) promote the uniform implementation at each port of entry policies and regulations relating to imports; (5) centralize the trade enforcement and trace facilitations efforts of CBP; (6) formalize an account-based approach to apply, as the Commissioner determines appropriate, to the importation of merchandise; (7) foster partnerships through the expansion of trade programs and other trusted partner programs; (8) develop applicable performance measurements to meet internal efficiency and effectiveness goals; and (9) whenever feasible, facilitate a more efficient flow of information between Federal agencies.

Section 110(b) requires that not later than December 31, 2016, the Commissioner submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report detailing: (1) the scope, function, and structure of each CEE; (2) the effectiveness of each CEE in improving enforcement efforts; (3) the quantitative and qualitative benefits of each CEE; (4) all applicable performance measurements with respect to each CEE; (5) the performance of each CEE in increasing the accuracy and completeness of data with respect to international trade and facilitating a more efficient flow of information between Federal agencies; and (6) any planned changes in the number, scope, functions or any other aspect of the CEEs.

The Committee recognizes CBP's efforts to address many concerns the private sector has regarding the agency's management of the importation process. With the establishment of the CEEs, CBP

has reorganized in order to focus on industry-specific issues and provide tailored support to unique trading environments. It is the view of the Committee that the CEEs should be statutorily established in order to ensure that CBP continues to unify trade facilitation and trade enforcement across all ports of entry, facilitate the timely resolution of trade compliance issues nationwide, and further strengthen CBP's knowledge of key industry practices. Specifically, the CEEs will (1) enhance economic competiveness of the United States by consistently enforcing the laws and regulations of the United States at all ports of entry and facilitating the flow of legitimate trade through increasing industry-based knowledge; (2) improve enforcement efforts, including priority trade issues described in 111(a) of this Act; (3) build upon the expertise of CBP in particular industry operations, supply chains, and compliance requirements; (4) promote the uniform implementation at each port of entry policies and regulations relating to imports; (5) centralize the trade enforcement and trace facilitations efforts of CBP; (6) formalize an account-based approach to apply, as the Commissioner determines appropriate, to the importation of merchandise; (7) foster partnerships through the expansion of trade programs and other trusted partner programs; (8) develop applicable performance measurements to meet internal efficiency and effectiveness goals; and (9) whenever feasible, facilitate a more efficient flow of information between Federal agencies.

Section 111—Commercial Targeting Division and National Targeting and Analysis Groups

Section 111(a) amends section 2(d) of the Act of March 3, 1927 (19 U.S.C. 2072(d)) to add at the end, a new paragraph (3), entitled "Commercial Targeting Division and National Targeting Analysis Groups". New subparagraph 2(d)(3)(A) requires the Secretary of Homeland Security to establish and maintain a Commercial Targeting Division (CTD) within CBP's Office of International Trade. The CTD shall be comprised of headquarters staff led by an Executive Director, and individual National Targeting and Analysis Groups (NTAGs) led by Directors reporting to the Executive Director. The CTD shall develop and conduct commercial targeting with respect to cargo destined for the United States.

Subparagraph 2(d)(3)(B) requires the establishment of an NTAG for each, at a minimum, of the following priority trade issues (PTIs): (1) agricultural programs; (2) antidumping and countervailing duties; (3) import safety; (4) intellectual property rights; (5) revenue; (6) textiles and wearing apparel; and (7) trade agreements and preference programs. This subparagraph allows the Commissioner to alter the aforementioned PTIs in consultation with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

The duties of each NTAG include (1) directing the trade enforcement and compliance assessment activities of U.S. Customs and Border Protection that relate to the Group's PTI; (2) facilitating, promoting, and coordinating cooperation and the exchange of information between CBP, ICE, and other relevant Federal departments and agencies regarding the Group's PTI; and (3) serving as the primary liaison between CBP and the public regarding United States Government activities regarding the Group's priority trade issue.

Subparagraph 2(d)(3)(C) requires the CTD to establish methodologies for assessing the risk that cargo destined for the United States may violate U.S. customs and trade laws and for issuing Trade Alerts. The CTD should assess the risk of cargo based on all information available to CBP through the Automated Targeting System, ACE, the Automated Commercial System, the Automated Export System, ITDS, and TECS (formerly known as the "Treasury Enforcement Communications System"), the case management system of ICE or any successor systems and publicly available information. The CTD should also use information provided by private sector entities and coordinate targeting efforts with other Federal agencies.

Subparagraph 2(d)(3)(D) authorizes the Executive Director of the CTD and NTAG Directors to issue Trade Alerts to port directors when such person determines cargo may violate U.S. customs and trade laws. The Trade Alert may direct further inspection or physical examination or testing of merchandise by the port personnel if certain risk-assessment thresholds are met. A port director may determine not to carry out the direction of the Trade Alerts if the port director finds such determination is justified by security interests and the port director notifies the Assistant Commissioners of the Office of Field Operations and the Office of International Trade of such determination. The Division must compile an annual report of all determinations by port directors to override Trade Alerts and include an evaluation of the utilization of Trade Alerts, and that report must be submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than December 31 each year.

Section 111(b) amends section 343(a)(3)(F) of the Trade Act of 2002 (19 U.S.C. 2071 note), to indicate that information collected pursuant to the regulations shall be used exclusively for ensuring cargo safety and security, preventing smuggling, and commercial risk assessment targeting, and shall not be used for any commercial enforcement purposes, including for determining merchandise entry.

The Committee recognizes the importance of the NTAGs in providing a national strategic perspective on trade through risk analysis and multi-disciplined trade strategies while also developing and applying advanced risk management techniques to support trade facilitation and enforcement. It is the view of the Committee that the NTAGs should be statutorily established and elevated in the hierarchy of the agency through the establishment of the CTD. Upon the enactment of this Act, the mission of the NTAGs will be expanded to include: (1) directing the trade enforcement and compliance assessment activities of CBP that relate to the Group's priority trade issue; (2) facilitating, promoting, and coordinating cooperation and the exchange of information between CBP, ICE, and other relevant Federal departments and agencies regarding the Group's priority trade issue; and (3) serving as the primary liaison between CBP and the public regarding United States Government activities regarding the Group's priority trade issue.

This section requires the NTAGs to target imports that may violate customs and trade laws, with particular focus on laws and regulations related to the following priority trade issues: (1) agriculture programs; (2) antidumping and countervailing duties; (3)

import safety; (4) intellectual property rights; (5) revenue; (6) textiles and wearing apparel; and (7) trade agreements and preference programs. The NTAGs will issue trade alters that may direct further inspection or physical examination or testing of merchandise by the port personnel if certain risk-assessment thresholds are met.

Section 112—Report on oversight of revenue protection and enforcement measures

The section requires the Inspector General of Department of Treasury to submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives that assesses: (1) CBP's effectiveness with respect to revenue protection; (2) CBP's effectiveness with respect to measuring accountability and performance related to revenue protection; (3) the number and outcome of investigations with respect to the underpayment of duties; and (4) the effectiveness of CBP's training efforts with respect to duty collection.

The Inspector General of the Department of Treasury shall submit this report by March 31, 2016, and no later than March 31 of each second year thereafter.

It is the Committee's view that the report should provide Congress with sufficient information to determine the effectiveness of resources used to protect the revenue of the United States. The information contained in this report should be in sufficient detail to allow Congress to identify deficiencies in the protection of revenue and address these issues through further legislation.

Section 113—Report on security and revenue measures with respect to merchandise transported in bond

This section requires the Secretaries of Treasury and Homeland Security to jointly submit to the relevant committees a report on: (1) the total entries shipped in bond; (2) the ports of entry (POE) merchandise arrives in for transportation in bond; (3) the average time taken to reconcile records of merchandise transported in bond; (4) the average time merchandise is transported in bond; (5) the total revenue owed and collected for merchandise transported in bond; (6) the total number of instances the destination changes for merchandise transported in bond; and (7) the number of entries that have not been reconciled for merchandise transported in bond. The Secretaries of the Department of Treasury and Department of Homeland Security shall submit this report by December 31 of 2016, 2017, and 2018.

It is the view of this Committee that the report required under this section should provide Congress with sufficient information to determine the effectiveness of resources used to protect the revenue and security of the United States for merchandise shipped in bond. The information contained in this report should be in sufficient detail to allow Congress to identify deficiencies in the protection of the revenue and security of the United States and address these issues through further legislation.

Section 114—Importer of record program

Section 114(a) requires the Secretary of Homeland Security to establish an importer of record program within 180 days of enactment of this Act.

Section 114(b) requires CBP to: (1) develop criteria that an importer must meet in order to obtain an importer of record number; (2) provide a process by which importers are assigned importer of record numbers; (3) maintain a centralized database of importer of record numbers; (4) evaluate and maintain the accuracy of the database if information changes; and (5) take measures to ensure that duplicate importer of record numbers are not issued

Section 114(c) requires the Secretary to submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the importer of record program within one year of the date of enactment of this Act.

Section 114(d) defines the term "number" as used in this section.

It is the view of the Committee that CBP does not currently collect enough information from prospective importers in order to adequately identify them and is not fully capable of inspecting current importer of record numbers to identify the individual or company associated with an importer of record number. This section addressed these deficiencies by requiring CBP to: (1) develop criteria that an importer must meet in order to obtain an importer of record number; (2) provide a process by which importers are assigned importer of record numbers; (3) maintain a centralized database of importer of record numbers; (4) evaluate and maintain the accuracy of the database if information changes; and (5) take measures to ensure that duplicate importer of record numbers are not issued. When developing the criteria to obtain an importer of record number, it is the view of Committee that CBP should request information on the industry that an importer is classified under. This information should be obtained by requesting the 6–digit North American Industry Classification System (NAICS) code, or successor classification system.

When developing the centralized database of importer of record numbers required under this section, CBP shall ensure that it can identify every importer of record number associated with an entity. This includes importer of record numbers that an entity may acquire when purchasing another entity.

Section 115—Establishment of new importer program

Section 115(a) requires the Commissioner to establish a new importer program no later than 180 days after the enactment of this Act that requires CBP to adjust bond amounts for new importers based on the level of risk posed to the revenue of the Federal Government.

Section 115(b) requires the Commissioner to ensure that CBP: (1) develops risk-based criteria for determining which importers are considered new importers; (2) develops risk assessment guidelines for new importers to adjust bond amounts and increase screening of imported products; (3) develops procedures to ensure increased oversight of imported products of new importers related to enforcement of priority trade issues created by section 111(a); (4) develops procedures to ensure increased oversight of imported products of new importers by the Centers of Excellence and Expertise established by section 110; and (5) establishes a centralized database of new importers to ensure accuracy of information that is required to be provided by new importers.

It is the view of the Committee that CBP has not fully addressed the risk that new importers pose to the revenue of the United States and the harm that they may pose to the economic or physical security of the United States. This section addresses these concerns by requiring that CBP (1) develops risk-based criteria for determining which importers are considered new importers; (2) develops risk assessment guidelines for new importers to adjust bond amounts and increase screening of imported products; (3) develops procedures to ensure increased oversight of imported products of new importers related to enforcement of priority trade issues created by section 111(a); (4) develops procedures to ensure increased oversight of imported products of new importers by the Centers of Excellence and Expertise established by section 110; and (5) establishes a centralized database of new importers to ensure accuracy of information that is required to be provided by new importers.

TITLE II—IMPORT HEALTH AND SAFETY

Section 201—Interagency Import Safety Working Group

Section 201(a) establishes an interagency Import Safety Working Group.

Section 201(b) sets forth the membership of the Working Group and designates the Secretary of Homeland Security as the Chair and the Secretary of Health and Human Services as the Vice Chair. The membership of the Working Group also shall include the Secretaries of Treasury, Commerce and Agriculture; the United States Trade Representative; the Director of the Office of Management and Budget; the Commissioners of CBP and the Food and Drugs; the Chairman of the Consumer Product Safety Commission; the Director of ICE; and the head of any other Federal agency designated by the President to participate.

Section 201(c) requires the Working Group to (1) consult on the development of a joint import safety rapid response plan required under section 202; (2) evaluate federal government and agency resources, plans, and practices to ensure the safety of U.S. imports and the expeditious entry of such merchandise; (3) review the engagement and cooperation of foreign governments and foreign manufacturers; (4) identify best practices, in consultation with the private sector, to assist U.S. importers in ensuring import health and safety of imported merchandise; (5) identify best practices to improve Federal, state, and local coordination in responding to import health and safety threats; and (6) identify appropriate steps to improve domestic accountability and foreign government engagement with respect to imports.

Section 202—Joint import safety rapid response plan

Section 202(a) requires the Secretary of Homeland Security, in consultation with the interagency Import Safety Working Group, to develop a joint import safety rapid response plan (Plan) that establishes protocols and practices CBP should use when responding to cargo that poses a threat to the health or safety of U.S. consumers and in recovering from or mitigating the effects of actions and responses to such an incident.

Section 202(b) sets forth the contents of the report, which must address (1) the responsibilities of CBP and other Federal agencies

in responding to an import health and safety threat; (2) the protocols and practices used in responding to such threats; (3) the mitigation measures CBP must take when responding to such threats after the incident to ensure the resumption of the entry of merchandise into the United States; and (4) exercises CBP should take with Federal, State, and local agencies as well as the private sector to simulate responses to such threats.

Section 202(c) requires the Secretary of Homeland Security to review and update the joint import safety rapid response plan, as appropriate, after conducting exercises under subsection (d)

Section 202(d) requires the Commissioner, in conjunction with Federal, state, and local agencies, to conduct exercises to test the Plan. When conducting exercises, the Commissioner must make allowances for the specific needs of the port where the exercise is occurring, base evaluations on current import risk assessments, and ensure that the exercises are conducted consistent with other national preparedness plans. The Secretary of Homeland Security and Commissioner must ensure that the testing and evaluations use performance measures in order to identify best practices and recommendations in responding to import health and safety threats and develop metrics with respect to the resumption of the entry of merchandise into the United States. Best practices and recommendations should then be shared among relevant stakeholders and incorporated into the Plan.

Section 203—Training

This section requires the Commissioner to ensure that CBP port personnel are trained to effectively enforce U.S. import health and safety laws.

It is the view of this Committee that Federal agencies can improve their ability to respond to imports that pose a threat to the health or safety of U.S. consumers. This title supports on-going efforts by requiring appropriate Federal agencies to coordinate in the development of a response plan that will (1) establish protocols and define practices for CBP to use in taking action in response to, and coordinating federal responses to, an incident in which cargo destined for, or merchandise entering, the United States poses a threat to the health or safety of consumers in the United States and (2) include guidance on recovering from or mitigating the effects of actions and responses to an import safety incident.

TITLE III—IMPORT-RELATED PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

Title III provides Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) with addition tools to protect and enforce intellectual property rights (IPR). Strong IPR protection is vitally important to the economy of the United States and the health and safety of the American people. It is therefore critical that our border enforcement agencies protect our borders from pirated, counterfeit, and other goods that infringe IPR.

Section 301—Definition of intellectual property rights

This section defines the term "intellectual property rights" as used in this title to include copyrights, trademarks, and other forms of intellectual property rights that are enforced by U.S. Cus-

toms and Border Protection (CBP) or U.S. Immigration and Customs Enforcement (ICE).

Section 302—Exchange of information related to trade enforcement

Section 302 requires CBP to share unredacted images and authorizes CBP to share unredacted samples prior to seizure of merchandise suspected of violating certain intellectual property rights (IPR) if CBP determines that examination or testing of the merchandise by the right holder would assist in determining if there is a violation, except in such cases as would compromise an ongoing law enforcement investigation or national security.

This section supersedes section 818(g) of the 2012 National Defense Authorization Act (NDAA), Public Law 112–81 (125 Stat. 1496), which authorized, but did not require, CBP to share unredacted images and samples with right holders for violations of trademark rights. In addition to violations of trademark rights, this section also applies to violations of copyright law, including certain violations of the Digital Millennium Copyright Act (DMCA) prohibiting the importation of unlawful circumvention devices.

This section identifies persons with whom the images and samples should be shared. For trademark violations, CBP should share with the owner of the trademark, and for copyright violations, CBP should share with the owner of the copyright. For violations of the DMCA, CBP should share with the owner of the copyright protected by a technological measure that the merchandise is suspected of being primarily designed or produced for the purpose of circumventing. A producer of a hardware device that includes the technological means of protection that the merchandise is designed to circumvent, the publisher of copyrighted material that is designed for use on the same device, or both, or others may be the owner of the copyright.

Effective border enforcement of IPR is critical to the United States economy and the health and safety of the people of the United States. The Committee believes that CBP's implementation of section 818(g) of the 2012 NDAA has resulted in a process that does not provide effective enforcement for trademark holders, and the Committee intends for CBP to implement this section in a manner that ensures effective border enforcement of IPR.

Section 303—Seizure of circumvention devices

Section 303 provides CBP with explicit authority to seize and forfeit circumvention devices, the importation of which is unlawful under 17 U.S.C. 1201(a)(2) or (b)(1). While CBP already has authority to seize and forfeit illegal merchandise, including unlawful circumvention devices, the Committee is providing CBP with explicit authority to seize and forfeit unlawful circumvention devices because the unlawful trade in circumvention devices has helped to facilitate the market for pirated goods, especially on the Internet, which has caused significant harm to United States creators and consumers. It is the Committee's intent that unlawful circumvention devices should be seized and forfeited pursuant to the authority provided by this section, and CBP should dedicate adequate resources to target merchandise for seizure and forfeiture pursuant to this authority.

This section also requires CBP to disclose certain information within 30 business days after seizure of an unlawful circumvention device to any person injured by a violation of (a)(2) or (b)(1) of section 1201 of title 17 that is included on a list maintained by the Commissioner. The information provided by CBP must be equivalent to the information CBP provides to copyright owners pursuant to 19 CFR 133.42.

This section requires the Commissioner to maintain a list of persons who may be potentially injured by an unlawful circumvention device by publishing a notice in the Federal Register requesting such persons to notify CBP that they wish to be included on the list. The Commissioner shall update this list annually through publication in the Federal Register, and CBP should have the flexibility to revise the list to accommodate changes in corporate structure, as through a merger or acquisition or new entrant into the market.

Persons injured by the importation of an unlawful circumvention device may potentially include, but are not limited to, the producer of a hardware device that includes the technological means of protection that the seized merchandise is designed to circumvent, the publisher of copyrighted material that is designed for use on the same device, or both.

This section also requires CBP to prescribe regulations within one year of enactment of this Act establishing procedures that implement the process required by this section for CBP to disclose certain information to persons injured by an unlawful circumvention device.

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

Section 304 directs the Secretary of Homeland Security to establish a process for the enforcement of copyrights for which the owner has submitted an application for registration with the U.S. Copyright Office to the same extent and in the same manner as if the copyright were registered with the Copyright Office, including the sharing of information as described in Section 302 above.

Under current CBP regulations, a copyright owner must wait until the copyright is registered with the U.S. Copyright Office before recording the copyright with CBP for effective border enforcement. During the time for processing an application at the U.S. Copyright Office, many right holders may suffer significant damage due to a lack of border enforcement. The purpose of this section is to rectify this problem for right holders.

Section 305—National Intellectual Property Rights Coordination Center

Infringement of intellectual property rights (IPR) causes significant harm to the U.S. economy, hurts American workers, and negatively impacts the health and safety of the American people. It is critical that U.S. law enforcement agencies provide effective enforcement of intellectual property rights, especially to stop the flow of infringing goods crossing United States borders. Effective border enforcement requires investigating the sources of IPR infringement. To do this effectively, federal law enforcement agencies must

coordinate with each other, with state, local, and international law enforcement agencies, and with the private sector.

To enhance intellectual property rights enforcement, Section 305 establishes within ICE the National Intellectual Property Rights Coordination Center (IPR Center), which shall be headed by an Assistant Director.

This section assigns the Assistant Director certain duties, including (1) coordinating the investigation of sources of merchandise that infringes intellectual property rights (IPR); (2) conducting and coordinating training with other domestic and international law enforcement agencies to improve IPR enforcement; (3) coordinating, with the U.S. Customs and Border Protection, U.S. activities to prevent the importation or exportation of IPR infringing merchandise; (4) supporting the international interdiction of merchandise destined for the U.S. that infringe IPR; (5) collecting and integrating information regarding infringements; (6) developing a means to receive and organize information regarding infringement of IPR; (7) disseminating information regarding infringement of IPR to other Federal agencies; (8) developing risk-based alert systems in coordination with CBP to improve the targeting of persons that repeatedly infringe intellectual property rights; (9) coordinating with U.S. Attorneys' offices to investigate and prosecute IPR crime; and (10) carrying out other duties assigned by the Secretary of Homeland Security.

In developing and implementing the risk-based alert system to improve the targeting of persons that repeatedly infringe intellectual property rights, the Assistant Director shall focus on the propensity to commit violations of other U.S. customs and trade laws, including the evasion of duties, taxes, and fees, especially by the fraudulent declaration of commercial merchandise as gifts.

This section also requires the Assistant Director to coordinate with federal, state, local and international law enforcement, intellectual property, and trade agencies, as appropriate, in carrying out the IPR Center's duties.

This section requires the Assistant Director to (1) conduct outreach to the private sector to determine trends in and methods of infringing IPR; and (2) coordinate public and private-sector efforts to combat the infringement of IPR.

Section 306—Joint strategic plan for the enforcement of Intellectual Property Rights

Section 306 requires the Commissioner and Director to include in the joint strategic plan on trade facilitation and enforcement required under section 105 of the Act the following: (1) a description of DHS's IPR enforcement efforts; (2) a list of the top 10 ports, by volume and value, where CBP seized IPR infringing goods in the preceding two years; and (3) a recommendation of the optimal allocation of personnel to ensure CBP and ICE are effectively enforcing IPR.

Section 307—Personnel dedicated to the enforcement of Intellectual Property Rights

CBP should dedicate adequate personnel to stop the flow of IPR infringing merchandise across U.S. borders. Section 307 requires the Commissioner to ensure sufficient personnel are assigned

throughout CBP with responsibility to enforce IPR with respect to U.S. imports. This section also requires the Commissioner to assign at least three full-time CBP employees to the IPR Center established under Section 305, and to ensure that sufficient personnel are assigned to U.S. ports of entry to carry out IPR Center directives.

Section 308—Training with respect to the enforcement of Intellectual Property Rights

CBP should ensure that its personnel are adequately trained. Section 308 requires the Commissioner to effectively train CBP port personnel to detect and identify IPR infringing imported goods; to work with the private sector to identify opportunities for collaboration with respect to training for officers of the agency to enforce IPR; and to consult with private sector entities to identify technologies which can cost-effectively identify infringing merchandise and to provide for cost-effective training for CBP officers with regard to the use of such technologies. This section also permits CBP to receive donations of technology to improve IPR enforcement.

Section 309—International cooperation and information sharing

For effective border enforcement of IPR, United States border enforcement agencies should coordinate with competent foreign law enforcement agencies. Section 309 requires the Secretary of Homeland Security to coordinate with competent foreign law enforcement agencies to enhance IPR enforcement, including by information sharing and technical assistance. This section also requires the Commissioner and the ICE Director to lead interagency efforts to collaborate with law enforcement and customs authorities of foreign countries.

Section 310—Report on Intellectual Property Rights enforcement

Section 310 requires the Commissioner and the ICE Director to jointly submit a report on efforts to combat IPR infringement to this Committee and the Committee on Ways and Means of the House of Representatives. The report should include: (1) information regarding the number, and a description of, certain efforts to investigate and prosecute IPR infringements; (2) an estimate of the average time required by the Office of Trade of CBP to respond to a request from port personnel for advice with respect to whether merchandise detained by CBP infringed IPR, distinguished by types of IPR infringed; (3) a summary of the outreach efforts of the CBP and ICE with respect to interdiction, investigation and information sharing between certain agencies related to the infringement of IPR, collaboration with the private sector, and coordination with foreign governments; (4) a summary of the efforts of CBP and ICE to address the challenges with respect to the enforcement of intellectual property rights presented by Internet commerce and the transit of small packages and an identification of the volume, value, and type of merchandise seized for infringing intellectual property rights as a result of such efforts; and (5) a summary of training relating to the enforcement of intellectual property rights conducted under Section 308 and expenditures for such training.

This report enhances accountability for United States border enforcement agencies regarding IPR enforcement. In addition, the information contained in the report will inform Congress and help to determine additional actions to take to enhance IPR enforcement at U.S. borders.

Section 311—Information for travelers regarding violations of Intellectual Property Rights

Many U.S. citizens are unaware of the dangers presented by trade in IPR infringing goods. Some may unwittingly facilitate this trade by acquiring these illicit goods abroad. Section 311 requires the Secretary of Homeland Security to develop and implement an educational campaign for travelers entering or departing the United States on the legal, economic, and public health and safety implications of importing IPR infringing goods into the United States. This section further requires the Commissioner to ensure that all versions, including the electronic versions, of CBP Form 6059B (customs declaration), or a successor form, include a written warning to inform travelers arriving in the United States that importation of merchandise that infringes IPR may subject travelers to civil or criminal penalties and may pose serious risks to health and safety.

TITLE IV—EVASION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS

Section 401—Short title

This section sets forth the short title of this title as the Enforcing Orders and Reducing Customs Evasion Act of 2015.

Section 402—Procedures for investigating claims of evasion of antidumping and countervailing duty orders

Section 402(a) amends the Tariff Act of 1930 by creating a set of procedures for investigating allegations of evasion of antidumping and countervailing duty orders and provides tools for enforcing the orders, under newly created section 517, entitled "Procedures for Investigating Claims of Evasion of Antidumping and Countervailing Duty Orders."

Section 517(a) lists the definitions for the section, including for the Administering Authority, Commissioner of U.S. Customs and Border Protection, covered merchandise, entry, evasion which excepts clerical errors, and interested party.

Section 517(b) requires the Commissioner to initiate an investigation within 10 business days of receipt of an allegation filed by an interested party and accompanied by information reasonably available to that party or referral by a Federal Agency that reasonably suggests that merchandise covered by an AD/CVD order has been entered into the United States through evasion. Upon request, the Commissioner may provide technical assistance and advice to eligible small businesses to enable such businesses to prepare and submit allegations of evasion. The Commissioner may consolidate multiple allegations and referrals. If during the course of conducting an investigation the Commissioner has reason to suspect that covered merchandise may pose a health or safety risk, the

Commissioner is required to provide appropriate information to other Federal agencies.

Section 517(c) requires the Commissioner to make a determination not later than 270 calendar days after the date of initiation of an evasion investigation with respect to whether there is substantial evidence that the merchandise under investigation was entered into the United States through evasion. The section authorizes the Commissioner to request information from the interested party making the allegation, as well as the importer, foreign producer, and foreign exporter of the alleged covered merchandise. The Commissioner may also request information from the government of the foreign country from which the alleged covered merchandise was exported. The bill provides that the Commissioner may make an adverse inference if the importer, exporter, or producer of the merchandise under investigation, or the interested party making the allegation, did not act to the best of its ability to provide information requested by the Commissioner. The bill further requires the Commissioner, no later than five business days after making a determination, to notify the interested party or parties who made an allegation that resulted in the initiation of an evasion investigation of the determination. Further, the Commissioner may provide importers information discovered in the investigation which would help educate importers regarding the lawful importation of merchandise into the United States.

Section 517(d) requires that if the Commissioner makes an affirmative determination of evasion, the Commissioner shall (1) suspend the liquidation of any unliquidated entries of the covered merchandise that is the subject of the allegation entered between the date of initiation and the date of the determination; (2) extend the period for liquidating any unliquidated entries of merchandise that entered before the initiation of the investigation; (3) notify Commerce of the determination and request that Commerce determine the appropriate duty rates for such covered merchandise; (4) require importers of such covered merchandise to post cash deposits and assess duties on the covered merchandise as directed by Commerce; and (5) take such additional enforcement measures as the Commissioner deems appropriate, including initiating proceedings for related violations of law, modifying CBP's procedures for identifying future evasion, requiring a deposit of estimated duties on future entries, and referring the matter to ICE for civil or criminal investigation. The section also requires the Department of Commerce to promptly provide the Commissioner with cash deposit rates and antidumping and countervailing duty rates, and establishes a special rule for cases in which the producer or exporter is unknown.

Section 517(e) requires the Commissioner to determine within 90 calendar days of initiation of an evasion investigation whether there is a reasonable suspicion that entries of covered merchandise that are the subject of the allegation were entered through evasion. If the Commissioner decides there is a reasonable suspicion, the Commissioner shall (1) suspend the liquidation of any unliquidated entries of the covered merchandise entered after the date of initiation; (2) extend the period for liquidating any unliquidated entries of merchandise that entered before the initiation of the investigation; and (3) take any additional measures necessary to protect the

ability to collect appropriate duties, which may include requiring a single transaction bond or posting cash deposits with respect to entries of covered merchandise.

Section 517(f) provides a period of 30 business days for interested party who made the allegation of evasion or the importer of the covered merchandise alleged to have entered the merchandise subject to the evasion determination to request de novo administrative review by the Commissioner after notification of a determination.

Section 517(g) establishes that judicial review shall be available to the interested party alleging evasion or the party found to have entered merchandise subject to the investigation through evasion of any administrative review of the evasion determination by CBP.

Section 517(h) sets out a rule of construction with respect to other civil and criminal proceedings so that no determination under subsection (c) or action taken by the Commissioner pursuant to the section shall be construed to limit the authority to carry out, or the scope of, any other proceeding or investigation pursuant to any other provision of Federal or State law.

Section 402(b) makes a conforming amendment.

Section 402(c) provides the effective date of the section is 180 days after the date of enactment.

Section 402(d) provides that the Secretary of the Treasury shall prescribe such regulations as may be necessary to implement the bill within 180 days of enactment.

Section 402(e) establishes the application of the section to Canada and Mexico.

Section 403—Annual report on prevention and investigation of evasion of antidumping and countervailing duty orders

Section 403(a) requires the Commissioner to submit to the Committees an annual report on the Commissioner's efforts to prevent and investigate the evasion of antidumping and countervailing duty orders.

Section 403(b) provides the contents of the report which shall include, for the preceding calendar year, a summary of CBP's efforts to prevent and investigate antidumping and countervailing duty evasion, the number of allegations received and the number resulting in investigations, a summary of investigations initiated under the new procedures, the number of investigations not completed during the specified time period, the amount of additional duties determined to be owed, the penalties imposed for each investigation, an identification of the countries of origin of covered merchandise entered through evasion, the amount of duties collected as a result of investigations, a description of the allocation of personnel and other resources to prevent and investigate evasion, a description of relevant training. The report shall also include a description of processes and procedures of CBP to prevent and investigate evasion.

Section 403(c) requires the Commissioner to make available a public summary of the report required in subsection (a) which includes, at a minimum, a description of the type of merchandise at issue in the investigations, the amount of additional duties found to be owed, the countries of origin of merchandise entered through evasion, and a description of the type of measures used to prevent and investigate evasion.

Section 403(d) includes additional definitions.

This title creates procedures that require CBP to investigation allegations of evasion of antidumping and countervailing duty orders and provides tools to counteract the detrimental effect of those practices. This title addresses the concerns of the Committee that CBP does not currently adequately protect the United States from evasion of AD/CVD orders.

TITLE V—AMENDMENTS TO ANTIDUMPING AND COUNTERVAILING DUTY LAWS

Section 501—Consequences of failure to cooperate with a request for information in a proceeding

Section 501 amends Section 776(b) and 776(c) of the of the Tariff Act of 1930 to provide the U.S. Department of Commerce flexibility to select appropriate facts available or adverse facts available when a foreign party fails to cooperate with the agency's request for information in a proceeding.

Section 502—Definition of material injury

Section 502(a) adds a new section 771(7)(J) of the Act which clarifies that, when considering whether a domestic industry suffered material injury, the International Trade Commission shall not make a negative determination merely because the domestic industry is profitable or because its performance has improved.

Section 502(b) modifies section 771(7)(C)(iii) of the Act to direct the Commission to consider certain additional injury factors such as the ability of domestic producers to service debt, as well as the return such producers receive on their assets. The amendment also makes clear that the term "profits" includes gross profits, operating profits, and net profits.

Section 502(c) modifies section 771(7)(C)(iv) of the Act to simplify the "captive production" test. In particular, this amendment eliminates the third part of the captive production test—that the production of the domestic like product sold in the merchant market is not generally used in the production of that downstream article.

Section 503—Particular market situation

Section 503 amends section 771(15), section 773(a)(1)(B)(ii)(III), and section 773(e) the definitions of "ordinary course of trade," "normal value" and "constructed value." These modifications provide that where a particular market situation exists that distorts pricing or cost in a foreign producer's home market, the Department of Commerce has flexibility in calculating a duty that is not based on distorted pricing or costs.

Section 504—Distortion of prices or costs

Section 504(a) amends section 773(b)(2) of the Act by removing the requirement that a party allege that a foreign producer has made sales below its costs before Commerce initiates an investigation.

Section 504(b) modifies section 773(c) of the Act to clarify that Commerce can disregard prices or costs of inputs that foreign producers purchase if Commerce has reason to believe or suspect that the inputs in question have been subsidized or dumped.

Section 505—Reduction in burden on Department of Commerce by reducing the number of voluntary respondents

Section 505 amends Section 782(a) of the Act to clarify Commerce's authority to select and limit voluntary respondents.

Section 506—Application to Canada and Mexico

Section 506 clarifies that the legislation applies to goods from Canada and Mexico pursuant to the North American Free Trade Agreement (NAFTA).

This title amends U.S. antidumping and countervailing duty laws relating to the investigations by the Department of Commerce and International Trade Commission. The changes in Section 501 clarify statutory requirements for the use of facts available. The changes in Section 502 respond to concerns that the Commission may in some cases not examine all data relevant to analyzing the effects of dumped and subsidized imports on the domestic industry, and concerns regarding the Commission's ability to accurately assess captive production issues. The changes in Sections 503 and 504 provide clarifications regarding home market distortion and cost and price distortion. Section 505 clarifies the treatment of voluntary respondents in light of certain recent court decisions.

TITLE VI—ADDITIONAL TRADE ENFORCEMENT AND INTELLECTUAL PROPERTY RIGHTS PROTECTION

SUBTITLE A—TRADE ENFORCEMENT

Section 601—Trade Enforcement Priorities

Section 601 amends section 310 of the Trade Act of 1974 to set out in section 310(a) a process for USTR to identify trade enforcement priorities, consult with Congress on the establishment of those priorities, and report on the actions taken to address those priorities. Section 310(a)(1) provides that USTR must consult with the Committee on Finance and the Committee on Ways and Means no later than May 31 each year regarding the prioritization of acts, policies, or practices of foreign governments that raise concerns under a U.S. trade agreement, or otherwise pose a barrier to U.S. exports. The section also provides that USTR shall focus on eliminating acts, policies, and practices that are likely to have the most impact on economic growth, and take into account relevant factors, including the trade barrier's economic significance and effect on U.S. jobs, and whether it was identified in the National Trade Estimate Report or by a Federal agency or congressional committee. Section 601(a) further requires the USTR to report on the identified trade enforcement priorities no later than July 31 of each year. The report must also include a description of actions taken to address trade enforcement priorities identified in prior years.

Section 310(b), as amended by section 601, requires USTR to undertake semi-annual enforcement consultations with the Senate Finance Committee and House Ways and Means Committee, which occurs at the same time as the reporting established under 310(a), and not later than January 31 of each year. The semi-annual consultations shall address the identification, prioritization, investigation, and resolution of acts, policies, or practices of foreign government of concern under U.S. trade agreements; active enforcement

investigations; ongoing enforcement actions; and enforcement resources.

Section 310(c), as amended by section 601, requires the USTR to take appropriate action, as defined in this section, to address an identified trade enforcement priority by the first semi-annual enforcement consultations after identification of the priority.

Section 310(d) requires the USTR to notify and consult with the Senate Finance Committee and House Ways and Means Committee in advance of initiation of any formal trade dispute brought by the United States, and as soon as practicable after initiation of trade disputes against the United States. It also requires notification and consultation in advance of the circulation of dispute settlement reports.

Section 602—Exercise of WTO authorization to suspend concessions or other obligations under trade agreements

Section 602(a) amends section 306 of the Trade Act of 1974 to establishes that, if an action to suspend concessions under the WTO Agreement has been terminated, and a petitioner or any representative of domestic industry which would benefit from reinstatement of action has submitted to the USTR a written request for reinstatement, and the USTR has completed the requirements of sections 306(d) and 307(c)(3) of the Trade Act of 1974, then the Trade Representative may at any time determine to take action to exercise an authorization by the WTO to suspend concessions or other obligations.

Section 602(b) contains conforming amendments.

Section 603—Trade monitoring

Section 603 amends chapter 1 of title II of the Trade Act of 1974 by adding a new section 205 that requires the U.S. International Trade Commission, within 180 days of enactment, to make available on a website of the Commission an import monitoring tool to allow the public access to data on the volume and value of goods imported into the United States for the purpose of assessing whether such data has changed with respect to such goods over a period of time. Not later than 270 days after the date of the enactment of this section, and not less frequently than quarterly thereafter, the Secretary of Commerce shall publish on a website of the Department of Commerce, and notify the appropriate Committees of the availability of, a monitoring report on changes in the volume and value of trade with respect to imports and exports of goods categorized based on the 6-digit HTS during the most recent quarter for which such data are available and previous quarters as the Secretary considers practicable.

Section 604—Establishment of Interagency Trade Enforcement Center

Section 604(a) amends chapter 4 of title I of the Trade Act of 1974 (19 U.S.C. 2171) by adding at the end section 142, entitled "Interagency Trade Enforcement Center" that does the following:

Section 142(a) establishes an Interagency Trade Enforcement Center (Center) in the Office of the United States Trade Representative (USTR).

Section 142(b) provides that the main functions of the Center are to: (1) serve as the primary forum within the Federal government for the USTR and other agencies to coordinate the enforcement of United States trade rights under international trade agreements and enforcement of United States trade remedy laws; (2) coordinate the exchange of information related to potential violations of international trade agreements; and (3) conduct outreach to United States workers, businesses, and other interested persons.

Section 142(c) requires the head of the Center to be a Director who shall be appointed from among full-time senior-level officials of USTR. The Center shall also have a Deputy Directory appointed by the Secretary of Commerce from among full-time, senior-level officials of Commerce. Other Federal government agencies that the Center coordinates with may detail or assign employees to the Center.

Section 142(d) requires funding and administrative support for the Center to be provided by the USTR.

Section 142(e) requires the Director to submit an annual report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the actions taken by the Center with respect to the enforcement of U.S. trade rights under trade agreements in the preceding year.

Section 142(f) defines key terms.

Section 604(b) makes a clerical amendment.

Section 605—Establishment of Chief Manufacturing Negotiator

This section establishes a Chief Manufacturing Negotiator at the Office of the United States Trade Representative (USTR) with the rank of Ambassador appointed by the President, by and with the advice and consent of the Senate, to conduct trade negotiations and to enforce trade agreements relating to U.S. manufacturing products and services. The Chief Manufacturing Negotiator will vigorously advocate on behalf of U.S. manufacturing interests and perform other functions directed by the USTR. Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Chief Manufacturing Negotiator must submit to this Committee and the Committee on Ways and Means of the House of Representatives a report on the actions taken by the Chief Manufacturing Negotiator in the preceding year.

This section also amends Section 5314 of title 5, United States Code, to set the pay for this position at Level III of the Executive Schedule. This section also amends Section 5314 of title 5 to correct the title of the Chief Agricultural Negotiator. This section also includes technical amendments relating to compensation rates for officers and employees of USTR, as well as experts and consultants employed by USTR.

Section 606—Enforcement under Title III of the Trade Act of 1974 with respect to unreasonable acts, policies, and practices relating to the environment

This section amends section 301(d)(3)(B) of the Trade Act of 1974 to include, among the conduct that is unreasonable for purposes of taking discretionary action under 301(b), a persistent pattern of conduct by a foreign country that: (1) fails to effectively enforce the environmental laws of the foreign country; (2) waives or otherwise

derogates from the environmental laws of the foreign country or weakens the protections afforded by such laws; (3) fails to provide for the judicial or administrative proceedings giving access to remedies for violations of the environmental laws of the foreign country; (4) fails to provide appropriate and effective sanctions or remedies for violations of the environmental laws of the foreign country; or (5) fails to effectively enforce environmental commitments under agreements to which the foreign country and the United States are a part.

It is the view of the Committee that the United States should have this tool to address trade related environmental issues enumerated above.

Section 607—Trade Enforcement Trust Fund

Section 607(a) establishes a Trade Enforcement Trust Fund (Trust Fund) in the Treasury of the United States.

Section 607(b) requires the Treasury to transfer $15 million each fiscal year to the Trust Fund. The aggregate money held in the Trust Fund may not exceed $30 million at any time.

Section 607(c) requires the Treasury to invest Trust Fund money that is not required to meet current withdrawals.

Section 607(d) allows the United States Trade Representative (USTR) to use amounts in the Trust Fund to: (1) enforce the provisions of and commitments and obligations under WTO Agreements and free trade agreements to which the United States is a party to and resolve any actions by foreign countries that are inconsistent with those provisions, commitments, and obligations; (2) monitor the implementation by foreign countries of the provisions and commitments and obligations under free trade agreements which the United States is a party to; and (3) thoroughly investigate and respond to petitions under section 302 of the Trade Act of 1974 (19 U.S.C. 2412) requesting that action be taken under section 301 of such Act (19 U.S.C. 2411). In addition, identified Federal agencies may also use amounts in the Trust Fund to ensure capacity building efforts undertaken by the United States (1) prioritize and give special attention to the implementation of intellectual property, labor, and environmental commitments; (2) are self-sustaining and promote local ownership; (3) include performance indicators against which the progress and obstacles for the implementation of commitments and obligations described in (1) can be identified and assessed within a meaningful time frame; and (4) monitor and evaluate capacity building efforts of the United States under (1), (2), and (3).

Section 607(e) requires that, not later than 18 months after the entry into force of any free trade agreements entered into after the date of enactment of this Act, any Federal agency that has used amounts in the Trust Fund in connection with that agreement to submit to Congress a report on the actions taken by that agency in connection with that agreement.

Section 607(f) requires the Comptroller General of the United States to submit to Congress not later than one year after the date of enactment of this Act a report that contains (1) a comprehensive analysis of the trade enforcement expenditures of each Federal agency with responsibilities relating to trade that specifies, with respect to each agency, the amounts appropriated for trade enforce-

ment and the number of full-time employees carrying out activities related to trade enforcement and (2) recommendations on the additional employees and resources that each Federal agency may need to effectively enforce free trade agreements the United States is a party to.

Section 607(g) defines key terms.

Section 608—Honey transshipment

Section 608(a) requires the Commissioner to direct appropriate personnel and resources to address concerns that honey is being imported into the United States in violation of U.S. customs and trade laws.

Section 608(b) requires CBP to compile a database of the individual characteristics of foreign honey to facilitate the verification of country of origin markings, and seek to work with foreign governments, industry and the Food and Drug Administration in compiling the database.

Section 608(c) requires the Commissioner to submit a report to Congress within 180 days after enactment of the Act that (1) describes and assesses the limitations in existing analysis capabilities of laboratories with respect to determining the country of origin of honey, and (2) includes any recommendation of the Commissioner for improving such capabilities.

Section 608(d) expresses the sense of Congress that the Commissioner of Food and Drugs should promptly establish a honey national identification standard to ensure that honey imports (1) are classified appropriately for duty assessment; and (2) are denied entry to the United States if such imports pose a threat to the health or safety of consumers.

Section 609—Inclusion of interest in certain distributions of antidumping duties and countervailing duties

Section 609(a) provides that the Secretary of Homeland Security shall deposit all interest in subsection (c) into the special account established under section 754(e) of the Tariff Act of 1930 for inclusion in distributions described in subsection (b) made on or after the date of the enactment of this Act.

Section 609(b) defines distributions as those made under section 754 of the Tariff Act of 1930 (19 U.S.C. 1675c) (repealed by subtitle F of title VII of the Deficit Reduction Act of 2005 (Public Law 109–171; 120 Stat. 154)) with respect to entries of merchandise made on or before September 30, 2007 and that were unliquidated, not in litigation, and not under an order of liquidation on December 8, 2010.

Section 609(c) defines interest as an amount earned on antidumping duties or countervailing duties distributed in subsection (b) that is realized through application of a payment received on or after October 1, 2014 by CBP or in connection with a customs bond pursuant to a court order or a settlement for any such bond. It further provides that the types of interest include interest accrued under section 778 or 505(d) of the Trade Act of 1930, or equitable interest under common law, or interest under section 963 of the Revised Statutes awarded by a court against a surety under its bond for late payment of antidumping duties, countervailing duties, or other interest.

Section 609(d) defines key terms.

Section 610—Illicitly imported, exported, or trafficked cultural property, archaeological or ethnological materials, and fish, wildlife, and plants

Section 610(a) requires the Commissioner and ICE Director to ensure that appropriate personnel are trained in the detection, identification, detention, seizure, and forfeiture of cultural property and archaeological or ethnological materials, and fish, wildlife and plants, the importation, exportation, or trafficking of which violates the laws of the United States.

Section 610(b) permits the Commissioner and the Director to accept training and other support services from experts outside of the Federal Government with respect to the detection, identification, detention, seizure, and forfeiture of cultural property and archaeological or ethnological materials, or fish, wildlife, and plants described in this section.

Enforcement of U.S. trade agreements and U.S. trade laws is critical to ensuring that the U.S. manufacturers, workers and farmers are not harmed by discriminatory and other harmful trade practices of our trading partners. It is the Committee's view that the new tools provided in this subtitle are necessary to further this goal and strengthen the enforcement function of the United States.

SUBTITLE B—INTELLECTUAL PROPERTY RIGHTS PROTECTION

Section 611—Establishment of Chief Innovation and Intellectual Property Negotiator

Protection of intellectual property rights is critical to the U.S. economy, jobs, national security, and the health and safety of the American people. Nearly the entire U.S. economy relies on some form of intellectual property rights because virtually every industry either produces or uses it. IPR infringement causes significant financial losses for U.S. right holders and businesses around the world. It also undermines U.S. innovation and creativity, hurting U.S. economic competitiveness to the detriment of American businesses and workers. IPR infringement also endangers the public and harms national security, as counterfeit products may pose significant risks to consumer health and safety.

Section 611 amends section 141 of the Trade Act of 1974 (19 U.S.C. 2171) to establish a Chief Innovation and Intellectual Property Negotiator at the Office of the United States Trade Representative (USTR), who shall be appointed by the President, by and with the advice and consent of the Senate, to conduct trade negotiations and to enforce trade agreements relating to United States intellectual property, and to take appropriate actions to address acts, policies, and practices of foreign governments that have a significant adverse impact on the value of United States innovation. The Chief Innovation and Intellectual Property Negotiator shall have the rank of Ambassador.

To ensure the rate of pay for the Chief Innovation and Intellectual Property Negotiator is equivalent to other Deputy USTR positions, this section amends section 5314 of title 5, United States Code, to set the pay for this position at Level III of the Executive Schedule.

This section also requires the USTR to submit an annual report to this Committee and to the Committee on Ways and Means of the House of Representatives detailing the enforcement actions taken by USTR to ensure the protection of United States innovation and intellectual property interests, and other actions taken to advance United States innovation and intellectual property interests.

The establishment of a Chief Innovation and Intellectual Property Negotiator with the rank of Ambassador reflects the critical importance of intellectual property to the U.S. economy. The establishment of this position, which will be appointed by the President, by and with the advice and consent of the Senate, and the additional requirement for USTR to submit an annual report to Congress enhances USTR's accountability to Congress and the American people regarding its efforts to protect intellectual property and innovation.

Section 612—Measures relating to countries that deny adequate protection for Intellectual Property Rights

The Committee supports USTR's use of the Special 301 Report, which is an important tool to encourage and maintain adequate and effective intellectual property rights protection and enforcement worldwide. The purpose of section 612 is to enhance the effectiveness of the Special 301 Report by ensuring that it addresses inadequate protections for trade secrets, and by providing USTR with tools to ensure countries listed in the report that have consistently failed to adequately protect intellectual property rights make progress in achieving effective protection of intellectual property rights and equitable market access for U.S. persons that rely upon intellectual property protections.

Inadequate protection for trade secrets and trade secret theft are increasing problems around the world. A trade secret is often among a business's core business assets, and protection of its trade secret is essential for that business's ability to compete. Trade secret theft, including industrial and economic espionage, imposes significant costs on the U.S. economy, weakens U.S. competitiveness, puts U.S. jobs at risk, and threatens national security. For these reasons, this Committee is concerned about inadequate protection for trade secrets, and the rise in trade secret theft. To reflect the seriousness of this threat to the U.S. economy and to U.S. national security, this section requires USTR to identify foreign countries that deny adequate and effective protection of trade secrets as part of the Special 301 Report.

To assist USTR in encouraging foreign countries placed on the Priority Watch List to address deficiencies with respect to IPR protection, enforcement, or market access for persons relying on IPR, this section requires USTR, within 90 days after submitting the annual National Trade Estimate, to develop an action plan for foreign countries that have spent at least one year on the Priority Watch List. The action plan calls for such countries to meet benchmarks designed to assist them to achieve effective protection of intellectual property rights, and equitable market access for U.S. persons that rely upon intellectual property protections.

This section also authorizes the President to take appropriate action with respect to foreign countries that fail to meet action plan benchmarks and requires USTR to transmit to this Committee and

to the Committee on Ways and Means of the House of Representatives a report on the action plans and the progress in achieving the action plan benchmarks.

TITLE VII—CURRENCY MANIPULATION

SUBTITLE A—INVESTIGATION OF CURRENCY UNDERVALUATION

Section 701—Short title

Section 701 sets forth the short title of this title as the Currency Undervaluation Investigation Act.

Section 702—Investigation or review of currency undervaluation under countervailing duty law

Section 702 amends subsection (c) of section 702 of the Tariff Act of 1930 (19 U.S.C. 1671a(c)) by requiring the administering authority to initiate an investigation to determine whether currency undervaluation by the government of a country or any public entity within the territory of a country is providing, directly or indirectly, a countervailable subsidy.

Section 703—Benefit calculation methodology with respect to currency undervaluation

Section 703 amends section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) by requiring the administering authoring to determine whether there is a benefit to the recipient of a countervailable subsidy and measure such benefit by comparing the simple average of the real exchange rates derived from application of the macroeconomic-balance approach and the equilibrium-exchange-rate approach to the official daily exchange rate identified by the administering authority. This section also defines key terms.

Section 704—Modification of definition of specificity with respect to export subsidy

Section 704 amends section 771(5A)(B) of the Tariff Act of 1930 (19 U.S.C. 1677(5A)(B)) by adding at the end the following sentence: "The fact that a subsidy may also be provided in circumstances that do not involve export shall not, for that reason alone, mean that the subsidy cannot be considered contingent upon export performance.".

Section 705—Application to Canada and Mexico

Section 705 provides that the amendments made by this title shall apply with respect to goods from Canada and Mexico.

Section 706—Effective date

Section 706 provides that the amendments made by this title apply to countervailing duty investigations initiated under subtitle A of title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) and reviews initiated under subtitle C of title VII of such Act (19 U.S.C. 1675 et seq.) (1) before the date of the enactment of this bill, if the investigation or review is pending a final determination as of such date of enactment; and (2) on or after such date of enactment.

SUBTITLE B—ENGAGEMENT ON CURRENCY EXCHANGE RATE AND ECONOMIC POLICIES

Section 711—Enhancement of Engagement on Currency Exchange Rate and Economic Policies with Certain Major Trading Partners of the United States

Section 711(a) requires that, not later than 180 days after the enactment of this Act and not less than every 180 days thereafter, the Secretary shall submit to Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the macroeconomic and currency exchange rate policies of each country that is a major trading partner of the United States which includes an enhanced analysis with respect to certain major trading partners of the United States the currency of which is persistently and substantially undervalued.

Section 711(b) directs the Secretary to conduct enhanced bilateral engagement with each country for which an enhanced analysis of macroeconomic and currency exchange rate policies is included in the report submitted. The Secretary may determine not to enhance bilateral engagement with a country if the Secretary submits to the relevant Committees a report that describes how the currency and other macroeconomic policies of that country are addressing the undervaluation and surpluses identified with respect to that country.

Section 711(c) authorizes the President to take the following remedial actions for a country that fails to adopt appropriate policies to address and correct persistent imbalances: (1) prohibiting the Overseas Private Investment Corporation from approving any new financing with respect to a project located in that country; (2) restricting Federal government procurement from that country, consistent with our international obligations; (3) engaging in additional efforts through the International Monetary Fund on rigorous surveillance of the macroeconomic and exchange rate policies of that country; and (4) considering the failure of the country to take remedial action when assessing the country as a potential trade agreement.

Section 711(d) defines key terms.

Section 712—Advisory Committee on International Exchange Rate Policy

Section 712(a) establishes the Advisory Committee on International Exchange Rate Policy (Committee). The Committee shall be responsible for advising the Secretary of the Treasury with respect to the impact of international exchange rates and financial policies on the economy of the United States.

Section 712(b) requires the Committee to be comprised of 9 members, none of whom shall be employees of the Federal government, provides that three members shall be appointed by each chamber of Congress and the President, and defines the qualifications for membership on the Committee.

Section 712(c) requires the Committee to be terminated two years after the enactment of this Act unless renewed by the President for a subsequent two-year period. The President may continue to renew the Committee in two-year periods.

Section 712(d) requires the Committee to meet not less than two times each calendar year.

Section 712(e) provides procedures for establishing a Committee chairperson.

Section 712(f) requires the Secretary of the Treasury to make available to the Committee such staff, information, personnel, administrative services, and assistance as the Committee may reasonably require.

Section 712(g) defines the application of the Federal Advisory Committee Act.

Section 712(h) authorizes the appropriations of $1,000,000 each fiscal year for the Committee.

In the view of the Committee, the tools currently available to the Federal government to address currency manipulation are inadequate. The provisions in this title enhance the ability of the United States to deal with and counteract the effects of currency manipulation.

TITLE VIII—PROCESS FOR CONSIDERATION OF TEMPORARY DUTY SUSPENSIONS AND REDUCTIONS

Section 801—Short title

This section sets forth the short title of this title as the American Manufacturing Competiveness Act of 2015.

Section 802—Sense of Congress on the need for a miscellaneous tariff bill

Section 802(a) lists the following Congressional findings: (1) as of the enactment of this bill, the Harmonized Tariff Schedule of the United States (HTSUS) imposes duties on imported goods for which there is no domestic availability or insufficient domestic availability; (2) the imposition of duties on such goods creates artificial distortions in the economy of the United States that negatively affect United States manufacturers and consumers; (3) it is in the interests of the United States to update the HTSUS every 3 years to eliminate such artificial distortions by suspending or reducing duties on such goods; (4) the manufacturing competitiveness of the United States around the world will be enhanced if Congress regularly and predictably updates the HTSUS to suspend or reduce duties on such goods.

Section 802(b) describes the sense of Congress that Congress should consider a miscellaneous tariff bill not later than 180 days after the United States International Trade Commission (USITC) and the Department of Commerce issue reports on proposed duty suspensions and reductions under this title in order to remove a comparative disadvantage to United States manufacturers and consumers.

Section 803—Process for consideration of duty suspensions and reductions

Section 803(a) defines the purpose of this section as a process by which the appropriate congressional committees, in conjunction with the Commission pursuant to its authorities under 332 of the Tariff Act of 1930 (19 U.S.C. 1332), for the submission and consideration of proposed duty suspensions and reductions.

Section 803(b) requires that not later than October 15, 2015, and October 15, 2018, the appropriate congressional committees shall establish and, on the same day, publish on their respective publically available Internet websites a process that (1) provides for the submission and consideration of legislation containing proposed duty suspensions and reductions in a manner that, to the maximum extent practicable, is consistent with the requirements described in subsection (c) and (2) includes in a miscellaneous tariff bill those duty suspensions and reductions that meet the requirements of this title.

Section 803(c) requires that, not later than October 15, 2015 and October 15 2018, the USITC to publish a notice (in the Federal Register and on the Internet) announcing a 60-day period during which the public could, following agency-specified requirements, submit proposed duty suspensions and reductions and required disclosure forms directly to the USITC. No later than 15 days after the expiration of the 60-day period, the USITC is required to provide to the appropriate congressional committees and publish on a publicly available website the proposed duty suspensions and reductions and the required disclosure forms. Further, not later than 90 days after publishing the proposed duty suspensions and reductions, the USITC shall submit to the appropriate congressional committees a report on each duty suspension and reduction submitted specifying: (1) whether or not domestic production of the product exists, and if so, whether the domestic producer objects to the duty suspension; (2) any technical changes necessary to the article description necessary for administration of the suspension; (3) the amount of foregone tariff revenue if the suspension is enacted; and (4) whether or not the duty suspension or reduction would be available to any person that imports the product.

Section 803(d) requires that not later than the end of the 90-day period beginning on the date of the publication of the proposed duty suspensions and reductions on the USITC's website, the Secretary of Commerce, in consultation with CBP and other relevant Federal agencies, shall submit a report on each proposed duty suspension and reduction, submitted by either the appropriate congressional committees or the responses from the public pursuant to the notice in the Federal Register, to the appropriate congressional committees that includes (1) a determination of whether or not domestic production of the article that is the subject of the proposed duty suspension or reduction exists and, if such production exists, whether or not a domestic producer of the article objects to the proposed duty suspension or reduction and (2) any technical changes to the article description that are necessary for purposes of administration when articles are presented for importation.

Section 803(e) sets out a rule of construction that requires a proposed duty suspension or reduction submitted under this title by a Member of Congress shall receive treatment no more favorable than the treatment received by a proposed duty suspension or reduction submitted under this title by a member of the public.

Section 804—Report on effects of duty suspensions and reductions on United States economy

Section 804(a) requires that not later than May 1, 2018 and May 1, 2022, the USITC shall submit to the appropriate congressional

committees a report on the effects on the United States economy on temporary duty suspensions and reductions pursuant to this title.

Section 804(b) requires the Commission to solicit and append to the report required under section 804(a) recommendations with respect to those domestic industry sectors or specific domestic industries that might benefit from permanent duty suspensions and reductions or elimination of duties.

Section 804(c) requires that each report be submitted in unclassified form, but may include a classified annex.

Section 805—Judicial review precluded

Section 805 prescribes that the exercise of functions under this title shall not be subject to judicial review.

Section 806—Definitions

Section 806 defines key terms.

TITLE IX—MISCELLANEOUS PROVISIONS

Section 901—De minimis value

Section 901(a) sets out the findings of Congress that modernizing international customs is critical for United States businesses of all sizes, as well as consumers and the economic growth of the United States and that higher thresholds for the value of articles that may be entered informally and free of duty provide significant economic benefits to the United States.

Section 901(b) sets out a sense of Congress that the United States Trade Representative should encourage other countries to establish commercially meaningful de minimis values for express and postal shipments that are exempt from customs duties and taxes and from certain entry document requirements.

Section 901(c) amends section 321(a)(2)(C) of the Tariff Act of 1930 to raise the de minimis threshold for the Secretary of the Treasury to permit the admission of articles duty free from $200 to $800.

Section 901(d) provides that the amendments shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the enactment of this Act.

The changes made in section 901 reflect the view of the Committee that U.S. custom rules should not impose an undue burden on small businesses, including those operating in the digital economy.

Section 902—Consultation on trade and customs revenue functions

Section 902 amends section 401(c) of the SAFE Port Act to require the Secretary to consult with the business community at least 30 days after proposing and 30 days before finalizing any policies, initiatives, or actions that will have an impact on CBP's trade and customs revenue functions. The Commissioner must also notify Committees at least 60 days before proposing and 60 days before finalizing any policies, initiatives, negotiating positions, or actions that will have an impact on CBP's trade and customs revenue functions or negotiating positions.

Section 903—Penalties for customs brokers

Section 903(a) amends section 641 of the Tariff Act of 1930 to add a new section that allows the Secretary of Homeland Security to impose fines, or revoke or suspend a customs broker license, if a broker has been convicted of committing or conspiring to commit an act of terrorism.

Section 903(b) makes technical and conforming amendments to section 641 of the Tariff Act of 1930.

Section 904—Amendments to Chapter 98 of the Harmonized Tariff Schedule of the United States

Section 904(a) amends subchapter II of chapter 98 of the Harmonized Tariff Schedule of the United States by adding at the end of U.S. Note 3 (relating to articles repaired, altered, processed or otherwise changed in condition abroad) that for the purposes of 9802.00.40 and 9802.00.50, fungible articles exported from the United States may be commingled, and the origin, value and classification of such articles may be accounted for using an inventory management method. The section also defines fungible and inventory management method for purposes of the section.

Section 904(b) amends the article description for subheading 9801.00.10 of the Harmonized Tariff Schedule of the United States relating to products of the United States returned after having been exported by inserting after the term "exported" the following, ", or any other products when returned within 3 years after having been exported".

Section 904(c) amends subchapter I of chapter 98 of the Harmonized Tariff Schedule of the United States by inserting a new subheading and providing duty-free treatment for certain U.S. government property returned to the United States.

Section 905—Exemption from duty of residue of bulk cargo contained in instruments of international traffic previously exported from the United States

Section 905(a) amends General Note 3(e) of the Harmonized Tariff Schedule of the United States by adding a new subparagraph (vii) that adds "residue of bulk cargo contained in instruments of international traffic previously exported from the United States" to the list of items exempt from duty payment. It also adds to language defining residue as not exceeding seven percent by weight of the bulk cargo and with no or de minimis value and defines other key terms.

Section 905(b) provides that the amendments in this section shall take effect on the date of enactment of this Act with respect to residue of bulk cargo instruments of international traffic that are imported on or after the date of enactment of this Act and that were previously exported from the United States.

This section reflects the view of the Committee that residue of bulk cargo contained in instruments of international traffic previously exported from the United States should be exempt from duty payment.

Section 906—Drawback and refunds

Section 906(a) amends section 313(a) of the Tariff Act of 1930 (19 U.S.C. 1313(a)) to provide that the amount of drawback claimed must be calculated pursuant to subsection (l).

Section 906(b) amends section 313(b) of the Tariff Act of 1930 (19 U.S.C. 1313(b)) by allowing substitution drawback for imported merchandise or merchandise classifiable under the same 8-digit HTS used in the manufacture or production of articles. This section also prescribes the amount of drawback claimed must be calculated pursuant to subsection (l) and such claim must be filed within 5 years of the importation of the merchandise. This section also sets out requirements related to the transfer of merchandise subject to a claim of drawback, and allows records kept in the normal course of business to be used to demonstrate the transfer of merchandise. Lastly, this section also requires a drawback claimant to submit a bill of materials to demonstrate the merchandise was incorporated into an article and provides a special rule for sought chemical elements.

Section 906(c) amends section 313(c) of the Tariff Act of 1930 (19 U.S.C. 1313(c)) by extending the filing deadline for drawback claims to 5 years from the date of importation. This section also prescribes the amount of drawback claimed must be calculated pursuant to subsection (l). Lastly this paragraph is amended to allow records kept in the normal course of business to be used to demonstrate the transfer of merchandise.

Section 906(d) strikes section 313(i) of the Tariff Act of 1930 (19 U.S.C. 1313(i)) and replaces it with new subsection entitled "Proof of Exportation." This subsection provides that the proof of exportation shall establish fully the date and fact of exportation and the identity of the exporter. This may be demonstrated either by records kept in the normal course of business or through the Automated Export System (AES) after CBP has certified AES to be a system of records.

Section 906(e) amends section 313(j) of the Tariff Act of 1930 (19 U.S.C. 1313(j)) to allow unused drawback claims for merchandise that are exported or destroyed and are classifiable under the same 8-digit HTS subheading number as such imported merchandise. Merchandise may not be substituted for imported merchandise for drawback purposes based on the 8-digit HTS if the article description for the 8-digit HTS begins with the term "other." In those instances, merchandise may be substituted for imported merchandise if such imported merchandise are classifiable under the same 10-digit HTS. If the 10-digit HTS begins with the term "other," then substitution drawback is not permissible. Additionally, for the purposes unused merchandise that is either exported or destroyed, the 10-digit Department of Commerce Schedule B number may be used to demonstrate that an article and merchandise are classifiable under the same 8-digit HTS without regard to whether or not the Schedule B number corresponds to more than one 8-digit HTS number. Furthermore, this section also amends the filing deadline for drawback claims to be 5 years from the date of importation and prescribes the amount of drawback claimed must be calculated pursuant to section (l).

Section 906(f) amends section 313(k) of the Tariff Act of 1930 (19 U.S.C. 1313(k)) by providing that any person making a drawback

claim is liable for the full amount of the drawback claimed and providing for the liability of importers with respect to claims made by another person. Any person claiming drawback and importers shall be jointly and severally liable with the importer for the lesser of the amount of drawback claimed or the amount the importer authorized the other person to claim.

Section 906(g) amends section 313(l) of the Tariff Act of 1930 (19 U.S.C. 1313(l)) to require the Secretary of the Treasury to prescribe regulations for the calculation of drawback that cannot exceed 99 percent of the lesser of the amount of duties, taxes, and fees paid with respect to the imported merchandise or the amount of duties, taxes, and fees that would apply to the exported article if the exported article were imported. This section requires the promulgation of the necessary regulations within 2 years. Additionally, one year after the enactment of this Act, and annually thereafter until the regulations required under this subsection are promulgated, the Secretary shall submit to Congress a report on the status of the regulations.

Section 906(h) amends section 313(p) of the Tariff Act of 1930 (19 U.S.C. 1313(p)) to require evidence of transfer to be demonstrated with records kept in the normal course of business.

Section 906(i) amends section 313(q) of the Tariff Act of 1930 (19 U.S.C. 1313(q)) to require the amount of drawback shall be calculated pursuant to section (j).

Section 906(j) amends section 313(r) of the Tariff Act of 1930 (19 U.S.C. 1313(r)) to require the filing of drawback claims to 5 years from the date of importation. This section also requires drawback claims to be filed electronically 2 years after the date of the enactment of this Act or later if the Automated Commercial Environment (ACE) is not ready.

Section 906(k) amends section 313(s) of the Tariff Act of 1930 (19 U.S.C. 1313(s)) to allow a drawback successor to, subject to the requirements set out in section 313(j), as amended designate unused imported merchandise, other merchandise classifiable under the same 8-digit HTS subheading number as such imported merchandise, or any combination of such imported merchandise and such other merchandise, that the predecessor received, before the date of succession, from the person who imported and paid any duties, taxes, and fees due on the imported merchandise, as the basis for drawback on merchandise possessed by the drawback successor after the date of succession.

Section 906(l) strikes section 313(t) of the Tariff Act of 1930 (19 U.S.C. 1313(t)).

Section 906(m) amends section 313(x) of the Tariff Act of 1930 (19 U.S.C. 1313(x)) to require the amount of drawback claimed pursuant to subsection (j) to be reduced by the value of any materials reclaimed from the destruction of unused merchandise.

Section 906(n) amends Section 313(z) to define key terms.

Section 906(o) amends section 508(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1508(c)(3)) to require records for drawback claims to be maintained for 5 years after the date of liquidation.

Section 906(p) requires the Government Accountability Office (GAO) to provide the Senate Finance and House Ways and Means Committees with a report not later than one year after the issuance of regulations provided for in subsection 313(l)(2), as

amended, that consists of: (1) an assessment of the modernization of drawback and refunds; (2) a description of drawback claims that were permissible before the effective date of these amendments, and are not after, and an identification of industries most affected; and (3) a description of drawback claims that were not permissible before the effective date of these amendments, and are after, and an identification of industries most affected.

Section 906(q) provides that the amendments made by this section shall generally take effect on the enactment of this Act. This section also provides for a one year transition for filing drawback claims once CBP promulgates regulations and requires a report on the operability of ACE with respect to processing drawback claims.

Drawback is currently a paper-based labor intensive process for both the government and private sector. This section reflects the view of this Committee that drawback needs to be simplified and automated by (1) allowing drawback claimants to generally use the 8-digit Harmonized Tariff Schedule of the United States number in lieu of obtaining a ruling prior to submitting a drawback claim with CBP; (2) allowing claims to be submitted in the Automated Commercial Environment (ACE); and (3) standardizing the timeframe to file a drawback claim to 5 years after the date of importation.

Section 907—Inclusion of certain information in submission of nomination for appointment as Deputy United States Trade Representative

This section requires that, when the President submits to the Senate for its advice and consent a nomination of an individual for appointment as a Deputy United States Trade Representative, the President shall include in that submission information on the country, regional offices, and functions of the Office of the United States Trade Representative with respect to which that individual will have responsibility.

The Office of U.S. Trade Representative has failed in the past to fully inform the Committee about the duties and functions of the nominee under consideration for a position as a Deputy U.S. Trade Representative prior to confirmation. This section is intended to ensure that such information is forthcoming prior to consideration of any future nominee.

Section 908—Biennial reports regarding competitiveness issues facing the United States economy and competitive conditions for certain key United States industries

Section 908(a) requires the United States International Trade Commission to conduct a series of investigations, and submit a report on each such investigation, regarding the competeveness issues facing the economy of the United States and competitive conditions for certain key United States industries.

Section 908(b) provides that the content of the reports that shall include (1) a detailed assessment of competeveness issues facing the economy of the United States over the 10-year period beginning on the date on which the report is submitted and (2) a detailed assessment of a key United States industry or industries. In selecting key United States industries, the Commission shall consult with the Committee on Finance of the Senate and the Committee on Ways

and Means of the House of Representatives. Furthermore, to the extent possible, the same key United States industry or industries should not analyzed in multiple reports.

Section 908(c) requires the reports to be submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives no later than May 15, 2017 and every 2 years thereafter.

Section 908(d) defines “key United States industry”.

The Committee believes that a forward-looking analysis of the competitive challenges and opportunities faced by the U.S. economy and key industries will better enable the Committee and Federal government agencies to more effectively plan and allocate resources devoted to trade negotiations and trade enforcement.

Section 909—Report on certain U.S. Customs and Border Protection Agreements

Section 909(a) The Act requires the Commissioner to submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a detailed annual report on each reimbursable agreement and public-private partnership agreement CBP enters into. Each report must include: (1) A description of the development of the program; (2) A description of the type of entity with which CBP entered into the agreement and the amount that entity reimbursed CBP under the agreement; (3) An identification of the type of port of entry to which the agreement relates and an assessment of how the agreement provides economic benefits at the port of entry; (4) A description of the services provided CBP under the agreement during the year preceding the submission of the report; (5) The amount of fees collected under the agreement during that year; (6) A detailed accounting of how the fees collected under the agreement have been spent during that year; (7) A summary of any complaints or criticism received by CBP during that year regarding the agreement; (8) An assessment of the compliance with the terms of the agreement of the entity that entered into an agreement with CBP; (9) Recommendations with respect to how activities conducted pursuant to the agreement could function more effectively or better produce economic benefits; (10) A summary of the benefits to and challenges faced by CBP and the entity that entered into an agreement with CBP.

Section 909(b) specifies that the programs that CBP must produce a detailed assessment of include programs under Section 560 of the department of Homeland Security Appropriations, 2013 (division D of Public Law 113–6; 127 Stat. 378) and Section 559 of the Department of Homeland Security Appropriations Act, 2014 (division F of Public Law 113–76; 6 U.S.C. 211 Note).

The Committee is concerned that CBP is not fully informing appropriate committees of jurisdiction on revenue and outlays associated with section 560 and section 559 programs. It is the view of this Committee that the reports required under this section will provide Congress with sufficient information to determine if the revenue raised under these programs is being spent in accordance with the program requirements in the most efficient manner.

Section 910—Charter flights

This section amends current law to permit CBP employees to provide customs services for passengers and baggage on charter flights that arrive at U.S. ports of entry after normal operating hours, if the air carrier specifically requests the services at least four hours before the flight arrives and pays any overtime fees.

Section 911—Amendment to Tariff Act of 1930 to require country of origin marking of certain castings

Section 911(a) amends section 304(e) of the Tariff Act of 1930 (19 U.S.C. 1304(e)) to include inlet frames, tree and trench grates, lampposts, lamppost bases, cast utility poles, bollards, hydrants, and utility boxes in the list of products which must always have a country of origin marking. This section also amends current law by requiring the aforementioned marking to be in a location such that it will remain visible after installation.

Section 911(b) prescribes that the amendments made by this section shall apply with respect to the importation of castings on or after the date that is 180 days after the enactment of this Act.

Section 912—Elimination of consumptive demand exception to prohibition on importation of goods made with convict labor, forced labor, or indentured labor; Report

Section 912(a) eliminates the consumptive demand exemption by striking "The provisions of this section" and all that follows through "of the United States" in section 307 of the Tariff Act of 1930 (19 U.S.C. 1307). The effective date of this subsection is 15 days after the enactment of this Act.

Section 912(b) requires the Commissioner to submit not later than 180 after the enactment of this Act, and annually thereafter, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on compliance with section 307 of the Tariff Act of 1930 (19 U.S.C. 1307), as amended by this bill, that includes (1) the number of instances in which merchandise was denied entry pursuant to that section during the 1-year period preceding the submission of the report; (2) a description of the merchandise denied entry pursuant to section 307; and (3) such other information as the Commissioner considers appropriate with respect to monitoring and enforcing compliance with section 307.

Section 913—Collection of occupational data in employer filings for unemployment insurance

Section 913 amends section 1137 of the Social Security Act (42 U.S.C. 1320b–7) by expanding the nationwide collection of labor statistics by (1) requiring each quarterly wage report required to be filed after January 1, 2016 to include occupational information with respect to each employee of the employer that permits the classification of such employees into occupational categories found in the Standard Occupational Classification (SOC) system; (2) requiring the state agency receiving the aforementioned information shall make it available to the Secretary of Labor; and (3) requiring the Secretary of Labor to make occupational information submitted available to other State and Federal agencies.

Section 914—Statements of policy with respect to Israel

Section 914 states that Congress (1) supports the strengthening of United States-Israel economic cooperation and recognizes the tremendous strategic, economic, and technological value of cooperation with Israel; (2) recognizes the benefit of cooperation with Israel to United States companies, including by improving American competitiveness in global markets; (3) recognizes the importance of trade and commercial relations to the pursuit and sustainability of peace, and supports efforts to bring together the United States, Israel, the Palestinian territories, and others in enhanced commerce; (4) opposes politically motivated actions that penalize or otherwise limit commercial relations specifically with Israel such as boycotts, divestment or sanctions; (5) notes that the boycott, divestment, and sanctioning of Israel by governments, governmental bodies, quasi-governmental bodies, international organizations, and other such entities is contrary to the General Agreement on Tariffs and Trade (GATT) principle of non-discrimination; (6) encourages the inclusion of politically motivated actions that penalize or otherwise limit commercial relations specifically with Israel such as boycotts, divestment from, or sanctions against Israel as a topic of discussion at the U.S.-Israel Joint Economic Development Group (JEDG) and other areas to support the strengthening of the United States-Israel commercial relationship and combat any commercial discrimination against Israel; (7) supports efforts to prevent investigations or prosecutions by governments or international organizations of United States persons on the sole basis of such persons doing business with Israel, with Israeli entities, or in Israeli-controlled territories; and (8) supports American States examining a company's promotion or compliance with unsanctioned boycotts, divestment from, or sanctions against Israel as part of its consideration in awarding grants and contracts and supports the divestment of State assets from companies that support or promote actions to boycott, divest from, or sanction Israel.

The Committee included section 914 as an expression of the Committee's continued support for the nation of Israel, which was our first bilateral free trade partner and one of our strongest allies in the Middle East. The Committee believes it is important to demonstrate our steadfast commitment so that Israel can continue to thrive through international trade. Inclusion of these provisions will help fight efforts by other nations to discriminate against Israel.

TITLE X—OFFSETS

Section 1001—Revocation or denial of passport in case of certain unpaid taxes

PRESENT LAW

The administration of passports is the responsibility of the Department of State. The Secretary of State may refuse to issue or renew a passport if the applicant owes child support in excess of $2,500 or owes certain types of Federal debts, such as expenses incurred in providing assistance to an applicant to return to the United States. The scope of this authority does not extend to rejection or revocation of a passport on the basis of delinquent Federal

taxes. Although issuance of a passport does not require a social security number or taxpayer identification number ("TIN"), the applicant is required to provide such number. Failure to provide a TIN is reported by the State Department to the IRS and may result in a $500 fine.

Returns and return information are confidential and may not be disclosed by the IRS, other Federal employees, State employees, and certain others having access to such information except as provided in the Internal Revenue Code. There are a number of exceptions to the general rule of nondisclosure that authorize disclosure in specifically identified circumstances, including disclosure of information about federal tax debts for purposes of reviewing an application for a Federal loan and for purposes of enhancing the integrity of the Medicare program.

REASONS FOR CHANGE

The Committee is aware that the amount of unpaid Federal tax debts continues to present a challenge to the IRS. The Committee is also aware that a significant amount of unpaid Federal tax debt is owed by persons to whom passports have been issued. In 2011, for example, the Government Accountability Office reported that approximately 224,000 persons issued U.S. passports in 2008 owed in aggregate $5.8 billion. Federal law currently permits the Department of State to refuse an application for a passport or revoke a passport based on the existence of certain debts, including delinquent child support, but does not have authority to consider the existence of tax debt. In addition, the IRS is not authorized to provide information to the Department of State about persons who owe tax debts. The Committee believes that tax compliance will increase if issuance of a passport is linked to payment of one's tax debts.

EXPLANATION OF PROVISION

Under this provision, the Secretary of State is required to deny a passport (or renewal of a passport) to a seriously delinquent taxpayer and is permitted to revoke any passport previously issued to such person. In addition to the revocation or denial of passports to delinquent taxpayers, the Secretary of State is authorized to deny an application for a passport if the applicant fails to provide a social security number or provides an incorrect or invalid social security number. With respect to an incorrect or invalid number, the inclusion of an erroneous number is a basis for rejection of the application only if the erroneous number was provided willfully, intentionally, recklessly or negligently. Exceptions to these rules are permitted for emergency or humanitarian circumstances, including issuance of a passport for short-term use to return travel to the United States by the delinquent taxpayer.

The provision authorizes limited sharing of information between the Secretary of State and Secretary of Treasury. If the Commissioner of Internal Revenue certifies to the Secretary of the Treasury the identity of persons who have seriously delinquent Federal taxes as defined in this provision, the Secretary of Treasury or his delegate is authorized to transmit such certification to the Secretary of State for use in determining whether to issue, renew, or revoke a passport. Applicants whose names are included on the certifications provided to the Secretary of State are ineligible for a

passport. The Secretary of State and Secretary of Treasury are held harmless with respect to any certification issued pursuant to this provision.

A seriously delinquent tax debt generally includes any outstanding debt for Federal tax in excess of $50,000, including interest and any penalties, for which a notice of lien or a notice of levy has been filed. This amount is to be adjusted for inflation annually, using calendar year 2013, and a cost-of-living adjustment. Even if a tax debt otherwise meets the statutory threshold, it may not be considered seriously delinquent if (1) the debt is being paid in a timely manner pursuant to an installment agreement or offer-in-compromise, or (2) collection action with respect to the debt is suspended because a collection due process hearing or innocent spouse relief has been requested or is pending.

EFFECTIVE DATE

The provision is effective on January 1, 2016.

Section 1002—Customs user fees

Section 601(a) amends Section 13031(j)(3)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) to extend the period that the Secretary of the Treasury may charge for certain customs services for imported goods from July 8, 2025 to July 28, 2025.

Section 601(b) extends the ad valorem rate for the Merchandise Processing Fee collected by Customs and Border Protection that offsets the costs incurred in processing and inspecting imports, from July 1, 2025 to July 14, 2025.

III. BUDGETARY IMPACT OF THE BILL

MAY 12, 2015.

Hon. ORRIN G. HATCH,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for the Trade Facilitation and Trade Enforcement Act of 2015.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

KEITH HALL.

Enclosure.

S. 1269—Trade Facilitation and Trade Enforcement Act of 2015

Summary: The Trade Facilitation and Trade Enforcement Act of 2015 would amend various trade statutes with the goal of strengthening agency enforcement efforts and improving the efficiency of the regulatory process. The bill would:

- Establish the Trade Enforcement Trust Fund to, among other things, support countries that are parties to a free trade agreement with the United States in implementing commitments under those agreements;

- Increase the funds available for distribution to eligible parties under the Continued Dumping and Subsidy Offset Act (CDSOA);
- Extend the authority to collect and increase the rate of certain customs user fees;
- Improve the claims process for refunds on duties paid for certain imported merchandise and increase the minimum value of goods for which duties must be paid;
- Deny passport applications, and allow existing passports to be revoked, for individuals with certain tax debt;
- Authorize the appropriation of $154 million annually over the 2016–2018 period for the Automated Commercial Environment program in Customs and Border Protection (CBP);
- Require CBP to improve and expand several trade regulation programs; and
- Require employers to report on the occupational classification of employees on a quarterly basis and require the Department of Labor to make that information available to state and federal agencies.

CBO and the staff of the Joint Committee on Taxation (JCT) estimate that enacting the bill would increase direct spending by $146 million over the 2015–2025 period and increase revenues by $193 million over the same period, resulting in a net decrease in deficits over the 11-year period of $48 million.

Pay-as-you-go procedures apply because enacting the legislation would affect direct spending and revenues. In addition, assuming appropriation of the necessary amounts, CBO estimates that implementing the bill would cost about $1.2 billion over the 2016–2020 period.

CBO has determined that the nontax provisions of the bill would impose a mandate, as defined in the Unfunded Mandates Reform Act (UMRA), on public and private-sector employers by requiring those entities, when submitting quarterly wage reports to state agencies, to include additional occupational information that permits classification of their employees. The bill also would impose mandates on users of customs services and on importers.

CBO estimates that the cost of the mandate on state, local, and tribal governments would fall below the intergovernmental threshold established in UMRA ($77 million in 2015, adjusted annually for inflation). CBO estimates that the aggregate cost of the mandates on private entities would exceed the private-sector threshold ($154 million in 2015, adjusted annually for inflation).

JCT has determined that the tax provisions of the bill contain no intergovernmental or private-sector mandates as defined in UMRA.

Estimated cost to the Federal Government: The estimated budgetary effect of the bill is shown in the following table. The costs of this legislation fall within budget functions 370 (advancement of commerce), 500 (education, training, employment, and social services), 750 (administration of justice), and 800 (general government).

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted by July 1, 2015.

Direct spending

CBO estimates that enacting the bill would increase direct spending by $146 million over the 2015–2025 period.

	By fiscal year, in millions of dollars—												
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2015–2020	2015–2025
CHANGES IN DIRECT SPENDING [a]													
Trade Enforcement Trust Fund:													
Estimated Budget Authority	0	15	15	15	15	15	15	15	15	15	15	75	150
Estimated Outlays	0	15	15	15	15	15	15	15	15	15	15	75	150
Payment of Interest on Certain Distributions Under CDSOA:													
Estimated Budget Authority	0	20	21	22	23	25	27	21	17	13	11	111	200
Estimated Outlays	0	20	21	22	23	25	27	21	17	13	11	111	200
Customs User Fees:													
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	0	−204	0	−204
Estimated Outlays	0	0	0	0	0	0	0	0	0	0	−204	0	−204
Total Changes:													
Estimated Budget Authority	0	35	36	37	38	40	42	36	32	28	−178	186	146
Estimated Outlays	0	35	36	37	38	40	42	36	32	28	−178	186	146
CHANGES IN REVENUES													
Change in De Minimis Value	−3	−14	−15	−15	−16	−17	−17	−18	−19	−20	−22	−80	−179
Revocation of Passports	0	24	60	62	46	39	34	32	33	34	35	231	398
Drawback Procedures	0	0	−2	−3	−3	−3	−3	−3	−3	−3	−4	−11	−7
Total Changes	−3	10	43	44	27	19	14	11	11	11	9	140	193
NET INCREASE OR DECREASE (−) IN THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES													
Impact on Deficit	3	25	−7	−7	11	21	28	25	21	17	−187	46	−48
CHANGES IN SPENDING SUBJECT TO APPROPRIATION													
Automated Commercial Environment:													
Authorization Level	0	154	154	154	0	0	0	0	0	0	0	461	461
Estimated Outlays	0	108	154	154	46	0	0	0	0	0	0	461	461
CBP Trade Programs:													
Estimated Authorization Level	0	48	95	98	101	104	107	110	113	116	120	445	1,010
Estimated Outlays	0	43	90	97	100	103	106	109	113	116	119	435	998
Department of Labor:													
Estimated Authorization Level	0	100	56	58	59	61	62	64	65	67	68	334	660
Estimated Outlays	0	20	72	66	58	59	61	62	64	65	67	274	594
Other Programs:													
Estimated Authorization Level	0	13	9	9	14	9	10	10	10	10	10	54	104
Estimated Outlays	0	11	9	9	14	10	10	10	10	10	10	52	102

Total Changes:													
Estimated Authorization Level	0	314	314	319	174	174	178	184	188	193	198	1,294	2,235
Estimated Outlays	0	182	325	326	218	172	177	181	186	191	196	1,222	2,154

Notes: This estimate assumes the bill is enacted by July 1, 2015; * = between zero and $500,000. For direct spending, negative numbers indicate a decrease in outlays; for revenues, negative numbers indicate a reduction in revenues. Components may not sum to totals because of rounding.

CDSOA = Continued Dumping and Subsidy Offset Act; CBP = Customs and Border Protection.

[a] On April 22, 2015, the Senate Committee on Finance approved multiple trade bills: Each of those bills would extend the authority to collect merchandise processing fees for a specific period of time. Because of interactions among the provisions in those bills, and for the purposes of this estimate, CBO assumes that the three bills will be enacted in the order that would extend those fees chronologically. If the bills are enacted in a different order, the estimated costs would be different.

Trade Enforcement Trust Fund. Section 607 would establish the Trade Enforcement Trust Fund to provide funding to several agencies, including the Office of the United States Trade Representative and the Departments of State and Labor, to enhance the capabilities of foreign countries' efforts to enforce the conditions of trade agreements with the United States. The bill would appropriate $15 million per year to, among other things, support self-sustaining activities in eligible countries to prioritize implementation of intellectual property, labor, and environmental commitments and to promote locally-owned businesses. CBO estimates that enacting this provision would increase direct spending by $150 million over the 2015–2025 period.

Payment of Interest on Certain Distributions Under the Continued Dumping and Subsidy Offset Act. Section 609 would increase the amount available for distribution to eligible parties under CDSOA. Under current law, CBP distributes antidumping and countervailing (ADCV) duties that were assessed on or after October 1, 2000, on goods that entered the United States before October 1, 2007, to domestic parties that meet the program's eligibility requirements. Based on information from CBP, CBO estimates that enacting this provision would increase direct spending by $200 million over the 2015–2025 period.

This section would direct CBP to include in the amount distributed to eligible parties interest earned on certain delinquent accounts. Specifically, in cases where CBP pursues payment of ADCV duties through litigation with sureties that provided customs bonds to guarantee payment, court-ordered interest received above the bond amount would be added to the distribution. This additional amount would apply only to cases where distributions are made on or after enactment of the bill, from court-ordered payments received from sureties after October 1, 2014.

Under current law, upon receipt of a court-ordered settlement in CDSOA cases, CBP first deposits into the Treasury any interest that accrued during the period of delinquency and litigation; the remaining amounts are available for distribution to eligible parties. Under the bill, those interest amounts currently deposited in the Treasury would instead be spent.

The CBP has 30 cases currently in litigation for delinquent ADCV duties due from sureties, dating as far back as 2009; based on the agency's experience with similar litigation, we expect it will take about six years for all of those cases to conclude. Further, we expect that CBP will bring an additional 15 cases against sureties for payment of delinquent duties over the next five years and that CBP will receive payment for those additional cases by the end of 2025.

Based on the average amount of delinquent ADCV duties and the average amount of bond coverage associated with those 30 cases, CBO estimates that CBP will collect about $250 million from sureties over the 2015–2025 period from court-ordered awards. Further, based on the length of time that typically elapses between the point when duties become delinquent until completion of the judicial proceedings, we estimate that about 80 percent of that amount, $200 million, will represent accrued interest that will be deposited into the Treasury. By making interest collections payable to entities

that are eligible to receive distributions, CBO estimates that enacting the bill would increase direct spending by that amount.

Customs User Fees. Under current law, the authority to charge merchandise processing fees collected by CBP will expire after September 30, 2024. The bill would permit those fees to be collected during the period beginning July 8, 2025, and ending July 28, 2025. The bill also would raise the rate of the merchandise processing fee from 0.21 percent to 0.3464 percent of the value of goods entering the U.S. for the period beginning July 1, 2025, and ending July 14, 2025. CBO estimates those actions would increase offsetting receipts (certain collections that are treated as reductions in direct spending) by $204 million in fiscal year 2025. To project collections of merchandise processing fees, CBO assumes that the fees collected in future years will grow at the same rate seen in recent years' about 5 percent. In 2014 collections from the merchandise processing fee totaled $2.3 billion. By 2024 CBO estimates those collections will total about $2.7 billion under current law. CBO expects that the proposed increase in the fee rate would have a very minor effect on the value of goods entering the U.S.

Revenues

CBO and staff of JCT estimate that enacting the bill would increase revenues by $140 million over the 2015–2020 period and by $193 million over the 2015–2025 period.

Change in De Minimis Value. Under current law, importers are not required to pay duties on shipments with a total value of $200 or less. The bill would increase that de minimis value to $800. According to the U.S. Customs and Border Patrol, in recent years duties collected on goods where each shipment was valued between $200 and $800, averaged $17 million a year. Considering that history and including anticipated growth in the value of imported goods, CBO estimates that raising the de minimis level to $800 would result in a revenue loss of $179 million over the 2015–2025 period, net of income and payroll tax offsets.

Revocation of Passport. Under Section 1001, the Secretary of State would be required to deny a passport application, with certain exceptions, from an individual with seriously delinquent tax debt in excess of $50,000 (indexed for inflation). Among other changes, the Secretary would also be permitted to revoke passports previously issued for such individuals. JCT estimates that the provisions would increase revenues by about $400 million over the 2016–2025 period.

Drawback Procedures. When goods imported into the country are later exported or destroyed, the import duties originally paid for those goods may be refunded. In addition, the exporting or destroying of substitute goods—goods that are comparable to such importsmay also qualify for such refunds. The bill would modify the claims process for such refunds—which are known as "drawbacks"—with the goal of simplifying the process. The most notable changes to the claims process include the following:

- Requiring the use of existing category codes to identify which goods may qualify as substitutes for the purposes of drawbacks,
- Standardizing and, in some cases, extending the period during which drawback claims may be filed, and

- Eliminating the requirement for paper documentation in certain drawback claims.

In 2014, roughly $470 million in duties on imported merchandise were refunded in cases where substitutable goods were later exported. Based on information from CBP, and allowing for an initial period to write new regulations, CBO estimates that enacting the bill would increase refunds, and therefore decrease revenues, by $27 million over the 2015–2025 period.

Penalties. The bill would require customs brokers to maintain records of the identity of their clients. It would also require nonresident importers to designate an agent in the United States with the power of attorney. The bill would prescribe monetary penalties for violations of those requirements. Under current law, CBP has broad authority to regulate the activities of customs brokers and importers, as well as assess monetary penalties for statutory or regulatory violations. Based on information from CBP, CBO expects that any additional monetary penalties resulting from enforcement of the new requirements would be insignificant. Similarly, CBO estimates that any change in customs duties that could result from those requirements would also be insignificant.

Prohibition on Imports of Certain Goods. Section 912 would prohibit the import of all goods manufactured by forced or indentured labor. Currently, such goods are prohibited from entering the U.S., with certain exceptions. This section would eliminate those exceptions, thereby resulting in fewer imported goods and a loss of tariff revenue, CBO estimates. According to CBP, most of the prohibited items came from China, a country with which we do not have a trade agreement. Based on this information, CBO believes there would be an additional loss of revenue as some goods that are currently imported from high-tariff countries like China, would instead be imported from countries subject to lower duty rates. On net, CBO estimates this provision would lead to a loss of revenue; however, because there is limited information available, we are unable to provide an estimate of the revenue effect at this time.

Spending subject to appropriation

For this estimate, CBO assumes that the necessary appropriations will be provided each year and that spending will follow historical patterns for these programs. Under those assumptions we estimate that implementing the bill would cost about $1.2 billion over the 2015–2020 period.

Automated Commercial Environment. The bill would authorize the appropriation of $154 million annually over the 2016–2018 period for the Automated Commercial Environment (ACE), a trade management system operated by CBP. For fiscal year 2014, $141 million was appropriated for ACE. CBO estimates that implementing this provision would cost $461 million over the 2016–2019 period.

CBP Trade Programs. The bill would direct CBP to improve and expand several trade enforcement and facilitation programs, including validation of new importers, protection of copyrights and intellectual property rights, and investigation of allegations of antidumping and countervailing duty evasion. Based on preliminary information from CBP, we estimate that the additional programs

would cost $435 million over the 2015–2020 period, mostly to hire new employees.

Department of Labor. The bill would require employers to report on the occupational classification of employees when filing quarterly wage reports. Assuming appropriation of the necessary amounts, CBO estimates that in total, this provision would cost $274 million over the 2016–2020 period. Because those data are not currently collected, employers, states, and DOL would need to develop systems for reporting and collecting that information. Based on preliminary information from the Bureau of Labor Statistics, developing those federal systems would cost $208 million over the 2016–2020 period, CBO estimates.

In addition, states would incur costs to adapt their wage reporting systems to comply with the bill's requirements. Under the Federal-State unemployment compensation system, states receive federal grants for their administrative costs. CBO estimates that additional federal grants to states would cost $66 million over the 2016–2020 period, to offset the cost of state compliance with the new requirements.

Other Programs. CBO estimates that implementing the bill would cost about $50 million over the 2016–2020 period for additional activities by the International Trade Administration, the U.S. International Trade Commission, the Office of the United States Trade Representative, and for additional reports to the Congress.

International Trade Administration (ITA). Section 702 would broaden the authority of the ITA to investigate allegations that foreign governments are unfairly subsidizing their producers and exporters. The legislation would direct the ITA to investigate undervalued currency as a possible countervailable subsidy, if an allegation is made by a domestic party and is supported by evidence. (A countervailable subsidy is financial assistance foreign governments provide to their domestic industries to benefit production, manufacture, or exportation of goods.)

Based on information from the agency, CBO estimates that implementing this provision would cost $22 million over the 2016–2020 period, assuming appropriation of the necessary amounts. That cost would cover salaries, benefits, and overhead for 19 additional staff positions (a one percent increase over fiscal year 2014 staffing levels) to handle the additional caseloads that would arise under the bill.

U.S. International Trade Commission (USITC). Title VIII would establish a process for the Congress to consider miscellaneous tarriff bills (MTBs) and would require USITC to review each bill and report to the Congress. Based on information from the USITC about the increase in their workload for previous MTBs, CBO estimates that this provision would cost $10 million over the 2016–2020 period.

Office of the United States Trade Representative (USTR). The bill would require new activities and reports, as well as establish new positions at USTR and would direct that office to establish a program to improve the enforcement of intellectual property rights in certain countries. Many of the requirements would codify existing policies and practices of the USTR. However, based on information from USTR and the cost of similar activities and programs, we esti-

mate that implementing the legislation would cost about $10 million over the 2016–2020 period.

Reports. The bill also would require about a dozen new reports from agencies relating to trade issues, mostly from CBP and the Government Accountability Office. Based on the costs of similar activities, CBO estimates that it would cost about $10 million over the 2016–2020 period to complete the reports required by the bill.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR THE TRADE FACILITATION AND TRADE ENFORCEMENT ACT OF 2015, AS ORDERED REPORTED BY THE SENATE COMMITTEE ON FINANCE ON APRIL 22, 2015

	By fiscal year, in millions of dollars—												
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2015–2020	2015–2025
	NET INCREASE OR DECREASE (−) IN THE DEFICIT												
Statutory Pay-As-You-Go Impact	3	25	−7	−7	11	21	28	25	21	17	−187	46	−48
Memorandum:													
Changes in Outlays	0	35	36	37	38	40	42	36	32	28	−178	186	146
Changes in Revenues	−3	10	43	44	27	19	14	11	11	11	9	140	193

Intergovernmental and private-sector impact: CBO has determined that the nontax provisions of the bill would impose a mandate, as defined in UMRA, on public and private-sector employers by requiring them to include information related to the occupational classifications of their employees when submitting quarterly wage reports to state agencies. The bill also would impose private-sector mandates on users of customs services and on importers. CBO estimates that the cost of the mandate on state, local, and tribal governments would fall below the intergovernmental threshold established in UMRA ($77 million in 2015, adjusted annually for inflation). CBO estimates that the aggregate cost of the mandates on private entities would exceed the private-sector threshold ($154 million in 2015, adjusted annually for inflation).

JCT has determined that the tax provisions of the bill contain no intergovernmental or private-sector mandates as defined in UMRA.

Mandate that applies to both public and private entities

The bill would require public and private-sector employers, when submitting quarterly wage reports to state agencies, to include additional occupational information that permits classification of their employees. Employers would incur new administrative costs to add the information to wage reports submitted on paper or electronically. Based on information on the cost to employers of complying with current wage reporting requirements and feedback from public employers about the marginal cost of including occupational information, CBO estimates that the aggregate cost of the mandates on public employers would fall below the annual threshold established in UMRA for intergovernmental mandates. According to Department of Labor data, the new reporting requirement could apply to more than 5.5 million employers in the private sector. Because of the large number of private employers affected by the requirement, CBO estimates that the cost of the mandate could amount to hundreds of millions of dollars in the first year the mandate is in effect. The total cost would depend on the type of additional information employers would be required to provide.

Mandates affecting only private-sector entities

The bill also would impose private-sector mandates, as defined in UMRA, on entities required to pay merchandise processing fees. The bill would extend those fees for the July 8, 2025, through July 28, 2025 period, and raise the fee rate beginning July 1, 2025, and ending July 14, 2025. CBO estimates that the incremental cost of the fees would amount to $204 million in 2025.

Finally, the bill would impose mandates on importers by requiring imported castings of such items as lampposts and utility poles to have the country-of-origin markings visible after installation and by prohibiting any imports of goods determined to be made with forced or indentured labor. Based on information from U.S. Customs and Border Protection regarding the value of such goods currently received by importers, CBO estimates that the cost for importers to comply with those mandates would be small.

Effect on State agencies administering unemployment insurance programs

The bill also would result in significant new administrative costs to state agencies administering unemployment insurance (UI) compensation programs because those agencies would need to increase administrative staff to collect, code, maintain, and report on new occupational data, as well as to educate affected employers about the changes. Many state agencies, especially those using older UI systems, would likely need to invest in new software systems or undertake major redesigns, as well as invest in additional data storage capacity. Depending on the extent to which state agencies would need to undertake those activities, CBO estimates that the new administrative costs to states could exceed $50 million over the 2016–2025 period, with most of those costs in the early years as systems are adapted. Those costs, however, would result from participation in a voluntary federal program and thus would not be an intergovernmental mandate as defined in UMRA. In addition, states receive federal funding for administrative costs relating to the UI system, and the net costs to states from complying with these provisions would be reduced if those grants to states were to increase.

Previous CBO estimate: On May 4, 2015, CBO transmitted a cost estimate for H.R. 1907, the Trade Facilitation and Trade Enforcement Act of 2015, as ordered reported by the House Committee on Ways and Means on April 23, 2015. CBO estimates that enacting H.R. 1907 would reduce revenues by $203 million over the 2015–2015 period and reduce direct spending by $4 million over the same period, resulting in a net increase in deficits over the 11-year period of $199 million. We also estimate that implementing H.R. 1907 would increase spending subject to appropriation by $944 million over the 2016–2020 period.

Estimate prepared by: Federal Costs: Mark Grabowicz, Susan Willie, and Christi Hawley Anthony; Federal Revenues: Ann Futrell, Nathaniel Frentz, and staff of the Joint Committee on Taxation; Impact on State, Local, and Tribal Governments: Jon Sperl; Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Theresa Gullo; Assistant Director for Budget Analysis.

IV. VOTES OF THE COMMITTEE

In compliance with paragraph 7(c) of rule XXVI of the Standing Rules of the Senate, the following statements are made concerning the roll call votes in the Committee's consideration of S. 1269.

A. MOTION TO REPORT THE BILL

S. 1269 as amended by the Chairman's modified mark and as further amended was ordered favorably reported by voice vote with a quorum present on April 22, 2015.

B. VOTES ON AMENDMENTS

(1) An amendment to include the Currency Undervaluation Act in the bill was agreed to by roll call vote. The vote was reported as—

Ayes: Grassley, Crapo, Roberts, Burr, Isakson, Portman, Scott, Wyden, Schumer, Stabenow, Nelson, Menendez, Carper (proxy), Cardin, Browm, Bennet, Casey, Warner (proxy)

Nays: Hatch, Enzi, Cornyn, Thune (proxy), Toomey, Coats, Heller, Cantwell

(2) An amendment to enhance engagement on currency exchange rate policies and other economic policies of certain major trading partners of the United States, to improve trade enforcement measures and priorities, and for other purposes was agreed to by roll call vote.

Ayes: Hatch, Grassley, Crapo, Roberts, Enzi, Cornyn, Thune (proxy), Burr, Isakson, Portman, Toomey, Coats, Heller, Scott, Wyden, Schumer, Stabenow, Cantwell, Nelson, Menendez, Carper, Cardin, Brown, Bennet, Casey, Warner

(3) An amendment to end the importation of goods made with forced labor was agreed to by roll call vote.

Ayes: Grassley, Crapo (proxy), Roberts, Cornyn, Thune (proxy), Portman, Toomey, Coats, Heller, Wyden, Schumer (proxy), Stabenow, Cantwell, Nelson, Menendez, Carper, Cardin, Brown, Bennet, Casey, Warner

Nays: Hatch, Enzi, Burr (proxy), Isakson, Scott

(4) An amendment to establish an Interagency Enforcement Center in the Office of the United States Trade Representative was agreed to by voice vote.

(5) An amendment to include the American Manufacturing Competitiveness Act was agreed to by voice vote.

(6) An amendment for the purposes of establishing a Trade Enforcement Trust Fund was agreed to by voice vote.

(7) An amendment to authorize discretionary action against a foreign country engaging in unreasonable acts, policies, or practices relating to the environment was agreed to by voice vote.

V. REGULATORY IMPACT OF THE BILL

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee states that the resolution will not significantly regulate any individuals or businesses, will not affect the personal privacy of individuals, and will result in no significant additional paperwork.

VI. ADDITIONAL VIEWS

ADDITIONAL VIEWS OF SENATOR TIM SCOTT

I would like to thank Chairman Hatch, Ranking Member Wyden, and the committee staff for their extraordinary efforts in crafting the Trade Facilitation and Trade Enforcement Act of 2015, for their consideration of numerous amendments offered by Members of the Finance committee, and, particularly, for their acceptance and inclusion of my amendments in the final bill relating to Customs and Border Protections' (CBP) enforcement activities.

CBP is responsible for enforcement of eligibility requirements for imports of goods, including those claiming preferential duties under U.S. free trade agreements and preference programs. Compliance with these requirements, and with other U.S. laws, such as those involving consumer safety and intellectual property, is imperative to ensure a level playing field for U.S. businesses, including those in my home state of South Carolina. Responsible U.S. importers often bear higher costs to ensure their compliance with U.S. law. A lack of effective enforcement would only hurt American companies that play by the rules, and benefit companies that don't. My amendments expand the annual reporting requirements to include reviewers' recommendations for improvements to CBP's enforcement activities and methodologies, and the status of implementation of past recommendations. Increasing opportunities for U.S. businesses that benefit from trade helps to strengthen and grow our economy, but effective enforcement by CBP reinforces the rules we establish to ensure that our businesses aren't disadvantaged.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In the opinion of the Committee, it is necessary in order to expedite the business of the Senate, to dispense with the requirements of paragraph 12 of rule XXVI of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the bill as reported to the Committee).