

DESCRIPTION OF CHAIRMAN'S MARK TO REAUTHORIZE TRADE FACILITATION
AND TRADE ENFORCEMENT FUNCTIONS AND ACTIVITIES AND FOR OTHER
PURPOSES.

Scheduled for Markup
by the
Senate Committee on Finance
on April 22, 2015

I. Introduction

The Senate Committee on Finance has scheduled a markup of a proposal to: 1) to enhance a proper balance between U.S. Customs and Border Protection's (CBP) trade facilitation and trade enforcement responsibilities and functions; 2) to ensure import health and safety; 3) to ensure import-related protection of intellectual property rights; 4) increase enforcement of antidumping and countervailing duties; 5) additional trade enforcement and intellectual property rights provisions; and 6) other purposes. This document provides a description of the proposal.

II. Proposal

TITLE I--TRADE FACILITATION, TRADE ENFORCEMENT, AND TRANSPARENCY
IMPROVING PARTNERSHIP PROGRAMS

Present Law

Current law provides for a voluntary government-private sector program such as the "Customs-Trade Partnership Against Terrorism" (C-TPAT; 6 U.S.C 961 et seq.) to strengthen and improve the overall security of the international supply chain and United States border security, and to facilitate the movement of secure cargo through the international supply chain, by providing benefits to participants meeting the program requirements.

Description of Proposal

The proposal requires the Commissioner to work with the private sector and other federal agencies to ensure that all Agency partnership programs provide trade benefits to participants. It requires the Commissioner to consult with the private sector, the public, and other federal agencies to ensure that participants receive commercially significant and measurable trade benefits in all such programs, and to ensure an integrated and transparent system of trade benefits and compliance requirements. It requires the Commissioner to consider consolidating Agency partnership programs to support the objectives of such programs, increase participation, and enhance the benefits provided to participants. The proposal also requires the Commissioner to coordinate with other federal agencies with authority to detain and release merchandise regarding the development

of their respective partnership programs and to work on criteria with them to provide expedited release to compliant partnership program participants.

The proposal requires the Commissioner to submit to the relevant committees report describing for each partnership program the requirements, the commercially significant and measurable trade benefits, and the number of participants. The required reports will also assess the effectiveness of each program with respect to security, trade enforcement and trade facilitation, summarize the Agency's efforts to coordinate with other federal agencies, and summarizes the Agency's efforts regarding the partnership programs with the private sector. The report to the Committees is due no later than 180 days after enactment of this Act and on December 31 of each year thereafter

Effective Date

The proposal would be effective immediately upon enactment.

REPORT ON EFFECTIVENESS OF TRADE ENFORCEMENT ACTIVITIES

Present Law

No provision

Description of Proposal

The proposal requires the Comptroller General of the United States to submit a report to the relevant committees on the effectiveness of trade enforcement activities of U.S. Customs and Border Protection

Effective Date

The proposal would be effective immediately upon enactment.

PRIORITIES AND PERFORMANCE STANDARDS FOR CUSTOMS MODERNIZATION, TRADE FACILITATION, AND TRADE ENFORCEMENT FUNCTIONS AND PROGRAMS

Present Law

No provision

Description of Proposal

The proposal 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.

Effective Date

The proposal would be effective immediately upon enactment.

EDUCATIONAL SEMINARS TO IMPROVE EFFORTS TO CLASSIFY AND APPRAISE IMPORTED ARTICLES, TO IMPROVE TRADE ENFORCEMENT EFFORTS, AND TO OTHERWISE FACILITATE LEGITIMATE INTERNATIONAL TRADE

Present Law

No provision

Description of Proposal

The proposal requires the Commissioner to establish a process to solicit, evaluate, and select interested private sector parties to assist in providing educational seminars to CBP and ICE personnel. The educational seminars should: 1) Improve CBP's ability to classify and appraise imported merchandise; 2) improve trade enforcement efforts of CBP and ICE personnel; and 3) improve the facilitation of legitimate international trade. The proposal sets out mandatory topics for the educational seminars and provides that the Commissioner shall give due consideration to requests from petitioners for training related to the enforcement of countervailing or antidumping duty orders. The proposal also requires the Commissioner and Director to submit an annual report to the relevant committees that on the effectiveness of the educational seminars. The report required under this section shall be submitted on September 30, 2016 and annually thereafter.

Effective Date

The proposal would be effective immediately upon enactment.

JOINT STRATEGIC PLAN

Present Law

No provision

Description of Proposal

The proposal requires the Commissioner and the Director to create and submit to the relevant committees a biennial joint strategic plan on trade enforcement and trade facilitation. It requires the joint strategic plan to contain a comprehensive plan for trade enforcement and trade facilitation that includes, among other things, the designation of priority trade issues that can be addressed to enhance trade enforcement and trade facilitation and the strategies and plans for addressing each one, and legislative recommendations to further improve trade enforcement and trade facilitation.

The proposal requires the Commissioner and Director to consult with appropriate officials from other Federal agencies, the Customs Operations Advisory Committee (COAC), appropriate officials from relevant foreign law enforcement agencies and international organizations, and interested parties in the private sector when developing the joint strategic plan.

Effective Date

The proposal would be effective immediately upon enactment.

AUTOMATED COMMERCIAL ENVIRONMENT

Present Law

Section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(4)) creates a separate account within the general fund of the Treasury known as the “Customs Commercial and Homeland Security Automation Account.” In each of fiscal years 2003, 2004, and 2005 there shall be deposited into the Account from fees collected for the processing of merchandise, \$350,000,000. It authorizes to be appropriated from the Account in fiscal years 2003 through 2005 such amounts as are available in that Account for the development, establishment, and implementation of the Automated Commercial Environment (ACE) computer system for the processing of merchandise that is entered or released and for other purposes related to the functions of the Department of Homeland Security. Amounts appropriated pursuant to this subparagraph are authorized to remain available until expended.

Description of Proposal

The proposal amends current law by directing authorized appropriations of not less than \$153,736,000 million for each of fiscal years 2016 through 2018 to complete the development and implementation of the Automated Commercial Environment (ACE) computer system.

The proposal requires the Commissioner to submit to the relevant committees a report that specifies the plans and deadlines to fully implement the ACE computer system by December 31, 2016. No later than September 30, 2017, the Commissioner must also provide an updated report that also contains an evaluation of the effectiveness of the implementation of ACE and the percentage of trade that has been processed via ACE since September 30, 2016.

The proposal requires the Government Accountability Office (GAO) to provide to the Senate Finance and Appropriations Committees, and the House Ways and Means and Appropriations Committees, a report evaluating the progress of other Federal agencies in accessing and utilizing ACE and assessing any additional cost-effective functionality that may be added to the ACE computer system. GAO shall provide the evaluation report to the Committees not later than December 31, 2017.

Effective Date

The proposal would be effective immediately upon enactment.

INTERNATIONAL TRADE DATA SYSTEM

Present Law

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). ITDS is an electronic information exchange system, or “single window,” through which businesses will be able to transmit data required by participating federal agencies for the importation or exportation of cargo. ITDS shall be implemented not later than the date that ACE is fully implemented.

The purpose of ITDS is to eliminate redundant information requirements, to efficiently regulate the flow of commerce, and to effectively enforce laws and regulations relating to international trade, by establishing a single portal system, operated by CBP, for the collection and distribution of standard electronic import and export data required by all participating federal agencies. It requires that all federal agencies requiring documentation for clearing or licensing the importation and exportation of cargo to participate in ITDS.

Description of Proposal

The proposal amends existing law and requires that the Secretary of Treasury to work with the head of each agency participating in ITDS and the Interagency Steering Committee to ensure that each such agency 1) develop and maintain the necessary information technology infrastructure to support the operation of the ITDS and to submit all data to ITDS electronically; 2) enter into a memorandum of understanding, or takes such other action as is necessary, to provide for the information sharing between the agency and CBP necessary for the operation and maintenance of 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 the operational functionality of the ACE computer system; and 4) not later than December 31, 2016, utilizes 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 certificates required for the release of imported cargo and clearance of cargo for export.

It should be noted that on February 14, 2014, President Obama issued Executive Order 13659 (“Streamlining the Export/Import Process for America’s Businesses”) which deals with the development and completion of ITDS.

Effective Date

The proposal would be effective immediately upon enactment.

CONSULTATIONS WITH RESPECT TO MUTUAL RECOGNITION ARRANGEMENTS

Present Law

No provision.

Description of Proposal

The proposal 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.

Effective Date

The proposal would be effective immediately upon enactment.

CUSTOMS OPERATIONS ADVISORY COMMITTEE

Effective Date

The *Omnibus Budget Reconciliation Act of 1987*, Pub. L. No. 100-203, Title IX, Subtitle F, § 9503(c), 101 Stat. 1330, 1330-381 (1987) (codified at 19 U.S.C. § 2071 note) established the Advisory Committee on Commercial Operations of the United States Customs Service (COAC).

That law provided that the Secretary of Treasury shall establish an advisory committee which shall be known as the “Advisory Committee on Commercial Operations of the United States Customs Service (‘Advisory Committee’),” which shall consist of 20 members appointed by the Secretary of Treasury.

The Advisory Committee was to provide advice to the Secretary of Treasury on all matters involving the commercial operations of the United States Customs Service; and submit an annual report to the relevant committees that describes the operations of the Advisory Committee during the preceding year, and sets forth any recommendations of the Advisory Committee regarding the commercial operations of the United States Customs Service.

Department of Treasury Order No. 100-16, dated May 15, 2003, and effective May 23, 2003 (published at 68 FR 28322, May 23,2003), specified as follows:

The Advisory Committee on Commercial Operations of the Customs Service (COAC) shall be jointly appointed by the Secretary of the Treasury and the Secretary of Homeland Security. Meetings of COAC shall be presided over jointly by the Secretary of the Treasury and the Secretary of Homeland Security. The COAC shall advise the Secretary of the Treasury and the Secretary of Homeland Security jointly.

The COAC is now known as the “Advisory Committee on Commercial Operations of Customs and Border Protection.”

Description of Proposal

The proposal requires the Secretaries of Treasury and Homeland Security to jointly establish a Customs Operations Advisory Committee (COAC). It requires that the COAC be comprised of 20 appointed individuals from the private sector; the Commissioner and the Assistant Secretary of Treasury for Tax Policy, who shall co-chair meetings; and the Assistant Secretary for Policy of the Department of Homeland Security and the ICE Director, who shall serve as deputy co-chairs of meetings. Private sector individuals must be broadly representative of the individuals and firms affected by the commercial operations of CBP, and may be appointed to multiple terms of three years each but serve not more than two terms sequentially. The Secretaries of Treasury and Homeland Security may transfer members to the COAC who are currently serving on the Advisory Committee on Commercial Operations of the United States Customs Service.

The proposal 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 that CBP should make to its commercial operations; (3) collaborate in developing the agenda for Advisory Committee meetings; and (4) perform other functions relating to the commercial operations of CBP

The proposal also specifies the meeting and reporting requirements of the COAC.

It also changes the name to the Customs Operations Advisory Committee, and makes additional conforming amendments.

Effective Date

The proposal would be effective immediately upon enactment.

CENTERS OF EXCELLENCE AND EXPERTISE

Present Law

No provision.

Description of Proposal

The proposal requires the Commissioner, in consultation with the relevant committees and the COAC, to develop and implement Agency-wide Centers of Excellence and Expertise (CEEs) that that 1) enhance economic competitiveness 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 trade 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.

Not later than December 31, 2016, the Commissioner shall submit to the relevant committees a report describing and evaluating the implementation of the CEEs.

Effective Date

The proposal would be effective immediately upon enactment.

COMMERCIAL TARGETING DIVISION AND NATIONAL TARGETING ANALYSIS GROUPS

Present Law

No provision.

Description of Proposal

The proposal requires the Secretary of Homeland Security to establish and maintain a Commercial Targeting Division (CTD) within CBP's Office of Trade. The CTD shall be comprised of headquarters staff led by an Executive Director, and individual National Targeting and Analysis Groups (N-TAGs) 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.

The proposal requires N-TAGs to target imports that may violate customs and trade laws, with particular focus on laws and regulations related to: 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. These priority trade issues may be modified, including by the elimination and addition of priority trade issues.

The duties of each N-TAG include (1) directing the trade enforcement and compliance assessment activities of U.S. Customs and Border Protection 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 U.S. Customs and Border Protection and the

public regarding United States Government activities regarding the Group's priority trade issue.

The proposal requires the CTD to establish methodologies for assessing the risk that imports may violate customs and trade laws and for issuing Trade Alerts when the CTD determines cargo may violate such 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 Commissioner of Field Operations and the Assistant Commissioner of International Trade of such a 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.

The proposal 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.

Effective Date

The proposal would be effective immediately upon enactment.

REPORT ON OVERSIGHT OF REVENUE PROTECTION AND ENFORCEMENT MEASURES

Present Law

No provision.

Description of Proposal

The proposal requires the Inspector General of Department of Treasury to submit a report to the relevant committees that assesses CBP's effectiveness with respect to (1) revenue protection; (2) measuring accountability and performance related to revenue protection; (3) the number of entries resulting in the underpayment of duties owed and a summary of the outcome of investigations; 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.

Effective Date

The proposal would be effective immediately upon enactment.

REPORT ON SECURITY AND REVENUE MEASURES WITH RESPECT TO MERCHANDISE TRANSPORTED IN BOND

Present Law

No provision.

Description of Proposal

The proposal 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 POE of 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.

Effective Date

The proposal would be effective immediately upon enactment.

IMPORTER OF RECORD PROGRAM

Present Law

No provision.

Description of Proposal

The proposal requires the Commissioner to establish an importer of record program that includes criteria and a process for assigning importer of record numbers, to ensure that duplicate importer of record numbers are not assigned to the same importer, as well as to maintain and evaluate the accuracy of a database of importer of record numbers. The Commissioner shall provide to the relevant committees a report on the importer of record program. This report is due within one year of the date of enactment of this proposal.

Effective Date

This section would be effective 180 days after enactment of this proposal.

ESTABLISHMENT OF NEW IMPORTER PROGRAM

Present Law

No provision.

Description of Proposal

The proposal requires the Commissioner to establish a new importer program that requires CBP to adjust bond amounts for new importers based on the level of risk posed to the revenue of the Federal Government. The Commissioner must also 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.

Effective Date

This section would be effective 180 days after enactment of this proposal.

TITLE II—IMPORT HEALTH AND SAFETY

INTERAGENCY IMPORT SAFETY WORKING GROUP

Present Law

No provision.

Description of Proposal

The proposal establishes an interagency Import Safety Working Group, which shall consist of the Secretary of Homeland Security, who shall serve as the Chair, the Secretary of Health and Human Services, who shall serve as Vice Chair, and other appropriate federal officials or their designees.

The duties of the interagency Import Safety Working Group shall include consulting on the development of the joint import safety rapid response plan required by section 202 and periodically evaluating the adequacy of the plans, practices, and resources of the Federal Government dedicated to ensuring the safety of imported merchandise, including minimizing the duplication of efforts among federal agencies; reviewing the engagement and cooperation of foreign governments and foreign manufacturers; identifying best practices to assist United States importers in taking all appropriate steps to ensure the safety of merchandise imported into the United States; identifying best practices, in consultation with private sector entities as appropriate, to assist United States

importers in taking all appropriate steps to ensure the safety of imported merchandise; identifying best practices, in consultation with private sector entities as appropriate, to assist United States importers in taking all appropriate steps to ensure the safety of imported merchandise.

Effective Date

The proposal would be effective immediately upon enactment.

JOINT IMPORT SAFETY RAPID RESPONSE PLAN

Present Law

No provision.

Description of Proposal

The proposal requires that not later than December 31, 2016 the Secretary of Homeland Security (“the Secretary”) consult with the interagency Import Safety Working Group to develop a joint import safety rapid response plan that sets forth protocols and defines 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. The plan shall also include guidance on recovering from or mitigating the effects of actions and responses to an import safety incident.

The Secretary shall review and update the joint import safety rapid response plan, as appropriate, after conducting periodic simulation exercises. The Secretary and the Commissioner shall ensure that the testing and evaluation carried out in conducting simulation exercises are performed using clear and objective performance measures and result in the identification of specific recommendations or best practices for responding to an import safety incident. The Secretary and the Commissioner shall share the recommendations or best practices among the members of the interagency Import Safety Working Group and with State, local, and tribal governments, foreign governments, and private sector entities, as appropriate; and use such recommendations and best practices to update the joint import safety rapid response plan.

Effective Date

The proposal would be effective immediately upon enactment.

TRAINING

Present Law

No provision.

Description of Proposal

The Commissioner shall ensure that CBP personnel assigned to U.S. ports of entry are trained to effectively administer import health and safety provisions and to assist in ensuring the safety and expedited entry of merchandise imported into the United States.

Effective Date

The proposal would be effective immediately upon enactment.

TITLE III—IMPORT-RELATED PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

DEFINITION OF INTELLECTUAL PROPERTY RIGHTS

Present Law

No provision.

Description of Proposal

The proposal defines the term “intellectual property rights” in this title as copyrights, trademarks, and other forms of intellectual property rights that are enforced by CBP or ICE.

Effective Date

The proposal would be effective immediately upon enactment.

EXCHANGE OF INFORMATION RELATED TO TRADE ENFORCEMENT

Present Law

Current law gives CBP the authority to detain and seize goods at the border that are in violation of certain intellectual property rights. There is no provision in current law that requires CBP to share unredacted images of suspected infringing merchandise if such sharing would assist CBP in determining whether the merchandise is infringing, or authorizes sharing of samples of suspected infringing merchandise with right holders prior to seizure to assist CBP in determining if the merchandise violates an intellectual property rights.

Description of Proposal

The proposal amends The Tariff Act of 1930 to require CBP to share unredacted images of suspected infringing merchandise with right holders prior to seizure if CBP determines that testing or examination by a right holder would assist in determining if the merchandise violates an intellectual property right. The proposal also authorizes CBP to share unredacted samples of the merchandise with right holders. CBP may not provide this information if providing it would compromise an ongoing law enforcement investigation or national security.

Effective Date

The proposal would be effective immediately upon enactment.

SEIZURE OF CIRCUMVENTION DEVICES

Present Law

Section 596(c) of the Tariff Act of 1930 (19 U.S.C. 1595a(c)) authorizes CBP to seize and forfeit merchandise imported in violation of federal law. There is no provision that explicitly authorizes CBP to seize or forfeit unlawful circumvention devices.

Description of Proposal

The proposal amends Section 596(c)(2) of the The Tariff Act of 1930 (19 U.S.C. 1595a(c)(2)) to explicitly authorize CBP to seize and forfeit unlawful circumvention devices.

The proposal further requires CBP to disclose to persons injured by the unlawful circumvention device certain information about the seized merchandise within 30 days of seizure, if that person is included on a list maintained by CBP and revised annually through publication in the Federal Register. The information that must be provided is the same information provided to copyright owners under CBP regulations for merchandise seized for violation of copyright laws. CBP must prescribe regulations to implement this process within one year of the date of enactment.

Effective Date

The proposal would be effective immediately upon enactment.

ENFORCEMENT BY U.S. CUSTOMS AND BORDER PROTECTION OF WORKS FOR WHICH COPYRIGHT REGISTRATION IS PENDING

Present Law

Under current CBP regulations, CBP does not have a process to take enforcement action against merchandise infringing a copyright unless the copyright is registered with the U.S. Copyright Office of the Library of Congress.

Description of Proposal

The proposal directs the Secretary of Homeland Security to, within 180 days after the date of enactment of this Act, establish a process for the enforcement of copyrights for which the copyright 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 U.S. Copyright Office, including the sharing of information as described in Section 302 of this Act.

Effective Date

The proposal would be effective immediately upon enactment.

NATIONAL INTELLECTUAL PROPERTY RIGHTS COORDINATION CENTER

Present Law

No provision.

Description of Proposal

The proposal establishes the National Intellectual Property Rights Coordination Center (IPR Center) within Immigration and Customs Enforcement (ICE). The proposal creates an Assistant Director of ICE to head the IPR Center and to coordinate federal efforts to combat IPR violations, including private sector outreach and coordination with Federal and non-Federal agencies.

Effective Date

The proposal would be effective immediately upon enactment.

JOINT STRATEGIC PLAN FOR THE ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

Present Law

No provision.

Description of Proposal

The proposal requires that the Commissioner and the Director shall include in the joint strategic plan on trade facilitation and trade enforcement required by Section 105 of this Act a description of the efforts of the Department of Homeland Security to enforce intellectual property rights; a list of the 10 U.S. ports of entry at which CBP has seized the most merchandise, both by volume and by value, that infringes intellectual property rights during the most recent 2-year period for which data are available; and a recommendation for the optimal allocation of personnel, resources, and technology to ensure that the CBP and ICE are adequately enforcing intellectual property rights.

Effective Date

The proposal would be effective immediately upon enactment.

PERSONNEL DEDICATED TO THE ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

Present Law

No provision.

Description of Proposal

The proposal requires that the CBP Commissioner and the ICE Director shall ensure that sufficient personnel who have responsibility for preventing the importation of merchandise that infringes intellectual property rights are assigned throughout CBP and ICE. The proposal requires that the Commissioner shall assign not fewer than three full-time employees of CBP to the IPR Center established under Section 305 of this Act and ensure that sufficient personnel are assigned to United States ports of entry to carry out the directives of the Center.

Effective Date

The proposal would be effective immediately upon enactment.

TRAINING WITH RESPECT TO THE ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

Present Law

No provision.

Description of Proposal

The proposal requires the Commissioner to ensure that CBP officers are trained to effectively detect and identify merchandise destined for the United States that infringes certain intellectual property rights, including through the use of technologies with the cost-effective capability to detect and identify at U.S. ports of entry merchandise that infringes intellectual property rights. The proposal requires the Commissioner to consult with private sector entities to better identify opportunities for collaboration with these entities with respect to training CBP officers to enforce intellectual property rights. The proposal also includes a provision for the Commissioner to prescribe regulations within 180 days after the enactment of the Act to enable CBP to accept donations of technology and to accept training and other support services from private sector entities for the purpose of enforcing intellectual property rights.

Effective Date

The proposal would be effective immediately upon enactment.

INTERNATIONAL COOPERATION AND INFORMATION SHARING

Present Law

No provision.

Description of Proposal

The proposal requires the Secretary of Homeland Security to coordinate with the competent law enforcement and customs authorities of foreign countries, including by sharing enforcement information to enhance intellectual property rights enforcement. It requires the Secretary of Homeland Security to provide technical assistance to competent law enforcement and customs authorities of foreign countries to enhance their ability to enforce intellectual property rights. It also requires the Commissioner and the Director to lead interagency efforts to collaborate with law enforcement and customs authorities of foreign countries to enforce intellectual property rights.

Effective Date

The proposal would be effective immediately upon enactment.

REPORT ON INTELLECTUAL PROPERTY RIGHTS ENFORCEMENT

Present Law

No provision.

Description of Proposal

The proposal requires the CBP Commissioner and the ICE Director to, no later than June 30, 2016, and annually thereafter, jointly submit to the Senate Finance Committee and the House Ways and Means Committee a report providing information regarding the efforts of CBP and ICE to enforce intellectual property rights, including referrals of investigations to the U.S. Attorney's Office and the status or outcome of these investigations, outreach efforts to Federal agencies and private sector entities, the efforts to address challenges presented by the Internet, and a summary of intellectual property rights enforcement training conducted under Section 308 of this Act.

Effective Date

The proposal would be effective immediately upon enactment.

INFORMATION FOR TRAVELERS REGARDING VIOLATIONS OF INTELLECTUAL PROPERTY RIGHTS

Present Law

No provision.

Description of Proposal

The proposal requires the Secretary of Homeland Security to develop and carry out an educational campaign to inform travelers entering or leaving the United States about the legal, economic, and public health and safety implications of acquiring merchandise that infringes intellectual property rights outside the United States and importing such merchandise into the United States in violation of United States law.

It also requires the Commissioner to ensure all versions, including electronic versions, of CBP Form 6059B (customs declaration), or a successor form, include, within 30 days of enactment of this Act, a written warning informing travelers arriving in the United States that the importation of merchandise into the United States that infringes intellectual property rights may subject travelers to civil or criminal penalties and may pose serious risks to safety or health.

Effective Date

The proposal would be effective immediately upon enactment.

TITLE IV—MISCELLANEOUS PROVISIONS

DE MINIMIS VALUE

Present Law

Section 321(a)(2)(C) of the Tariff Act of 1930 (19 U.S.C. 1321(a)(2)(C)) provides for an administrative exemption to allow the release of goods at the border free of duty and tax. The exemption applies to shipments valued at \$200 or less (also referred to as “de minimis” or low-value shipments) imported by one person on one day.

Description of Proposal

The proposal would raise the administrative exemption from \$200 to \$800 for shipments of merchandise imported by on person on one day.

It should be noted that \$800 is also the current amount for personal duty free exemption for U.S. residents for articles accompanying them when returning back to the United States.

Effective Date

This section would apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the enactment of this proposal.

CONSULTATION ON TRADE AND CUSTOMS REVENUE FUNCTIONS

Present Law

Section 401(c) of the Safety and Accountability for Every Port Act (6 U.S.C. 115(c)) requires the Secretary of the Secretary of Homeland Security to consult with representatives of the business community involved in international trade on Department policies and actions that have a significant impact on international trade and customs revenue functions. The law also requires the Secretary to notify the appropriate Congressional committees not later than 30 days prior to the finalization of any Department policies, initiatives, or actions that will have a major impact on trade and customs revenue functions.

Description of Proposal

The proposal amends current law by requiring the Secretary of the 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 trade and customs revenue functions. The Commissioner must also notify the appropriate congressional 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.

Effective Date

The proposal would be effective immediately upon enactment.

PENALTIES FOR CUSTOMS BROKERS

Present Law

Current law authorizes CBP to issue penalties against customs brokers for various violations set forth in section 641 of the Tariff Act of 1930 (19 U.S.C. 1641).

Description of Proposal

The proposal adds to the list of violations for broker penalties the offense of having been convicted of committing or conspiring to commit an act of terrorism (as described in section 2332b of Title 18, United States Code). The proposal also makes technical amendments to section 641 of the Tariff Act of 1930 (19 U.S.C. 1641).

Effective Date

The proposal would be effective immediately upon enactment.

AMENDMENTS TO CHAPTER 98 OF THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

Present Law

U.S. Note 3 to subchapter II of chapter 98 of the Harmonized Tariff Schedule of the United States allows a partial or complete duty exemption for articles returned to the United States, after having been exported to be advanced in value or improved in condition by means of repairs or alterations. It also allows goods to be entered duty free if the goods are a product of the United States when returned after having been exported, without having been advanced in value or improved in condition by any process of manufacture or other means while abroad.

Description of Proposal

The proposal contains the following amendments:

Articles Exported and Returned, Advanced or Improved Abroad: 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.

Modification of Provisions Relating to Returned Property: Amends the article description for subheading 9801.00.10 of the *Harmonized Tariff Schedule of the United States* by inserting after the term “exported” the following phrase: “, or any other products when returned within 3 years after having been exported.”

Duty-Free Treatment for Certain United States Government Property returned to the United States: 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.

Effective Date

The proposal would be effective for articles that are entered, or withdrawn from warehouse for consumption, on or after the date that is 60 days after the date of the enactment of the proposal.

EXEMPTION FROM DUTY OF RESIDUE OF BULK CARGO CONTAINED IN
INSTRUMENTS OF INTERNATIONAL TRAFFIC PREVIOUSLY EXPORTED FROM THE
UNITED STATES

Present Law

General Note 3(e) of the Harmonized Tariff Schedule of the United States list merchandise that is not subject to duty.

Description of Proposal

The proposal amends General Note 3(e) of the Harmonized Tariff Schedule of the United States to include residue of bulk cargo contained in instruments of international traffic previously exported from the United States (i.e., exempt residue from duty).

The proposal defines residue as material of bulk cargo that remains in an instrument of international traffic after the bulk cargo is removed, with a quantity, by weight or volume, not exceeding seven percent of the bulk cargo, and with no or de minimis value.

Effective Date

The proposal would be effective immediately upon enactment with respect to residue of bulk cargo instruments of international traffic that are imported on or after the date of enactment of this enactment and that were previously exported from the United States.

DRAWBACK SIMPLIFICATION

Present Law

Drawback is the refund of up to 99 percent of Customs duties, certain taxes, and certain fees that have been lawfully collected at importation. The refund is administered after the exportation or destruction of either the imported product or article that has been manufactured from the imported product.

The purpose of drawback is to allow American-made products to compete more effectively in world markets. It enables domestic manufacturers and producers to select the most advantageous sources for their raw materials and component requirements without regard to duties. It also encourages domestic production and the use of American labor and capital.

The three main categories of drawback are manufacturing drawback; unused merchandise drawback; and rejected merchandise drawback. There are variations within each category, such as the ability to substitute the imported article, specific time limits to manufacture or export articles, and the recordkeeping requirements to prove drawback eligibility.

Description of Proposal

The proposal simplifies current drawback law. It permits imported goods of one 8-digit *Harmonized Tariff Schedule of the United States* (HTS) subheading to qualify for duty drawback when goods of the same 8-digit HTS subheading are exported. The Schedule B (Department of Commerce Schedule B, *Statistical Classification of Domestic and Foreign Commodities Exported from the United States*) number may be used for purposes of determining whether the merchandise is or has been classified under the same 8-digit HTS subheading as other merchandise. The proposal also standardizes the time frames for filing drawback and modernizes the claimant recordkeeping requirements. These changes will reduce the burden associated with the currently complex statutory and administrative requirements for drawback claimants. The changes also

provide the legal framework that will allow CBP to incorporate drawback claim processing in the ACE computer system. Specific amendments to current drawback law include the following:

The proposal amends current law by removing the requirement to file a certificate of delivery to evidence the transfer of merchandise and allow a transfer of merchandise to be evidenced by maintaining records kept in the normal course of business. The proposal also requires drawback claimants to retain records for five years after liquidation. Currently, a drawback claimant must retain a certificate of delivery for three years after receiving a drawback payment.

The proposal also amends current law to require that the importer and the party claiming drawback shall be jointly and severally liable for the full amount of the drawback claim made. Currently, when the drawback claimant is not the importer, the importer is not responsible for claims made against its imports.

The proposal requires CBP to promulgate regulations within two years of the enactment of this proposal for the calculation of drawback that will allow for no more than 99 percent of duties, taxes, and fees to be refunded. It provides that, in certain circumstances when a good is being exported and classified in the same 8-digit HTS subheading as a good that was imported, but the two goods have different monetary values, the calculation of duty drawback will be based on the lesser of the two values.

The proposal sets forth the filing requirements that drawback claims shall be filed electronically and no later than 5 years after the date on which the merchandise is imported or if the claim is based on merchandise imported on more than one date, the earliest date. If drawback is claimed on merchandise that is exported, the record of exportation must be contained in a record that is kept by the exporter in the normal course of business or be entered into the automated export system (AES) of the United States, when AES is determined to be a system of record.

The proposal requires CBP to submit a report to the appropriate committees on the status of the development of the necessary regulations no later than one year after the enactment of the Act and annually thereafter until such regulations are promulgated. The proposal also requires CBP report to the appropriate committees on the status of the automated commercial environment (ACS) and the automated export system (AES) for use with drawback claims.

The proposal requires the Government Accountability Office (GAO) to provide the Senate Finance and House Ways and Means Committees with a report that consists of: (1) an assessment of the modernization of drawback and refunds; (2) a description of drawback claims that were permissible before the enactment of the Act are not after and an identification of industries most affected; and (3) a description of drawback claims that were not permissible before the enactment of the Act and are after and an identification of industries most affected.

Effective Date

The proposal would be effective immediately upon enactment.

TITLE V--EVASION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS

PROCEDURES FOR INVESTIGATING CLAIMS OF EVASION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS

Present Law

Under current customs laws, CBP can take enforcement action against the evasion of antidumping and countervailing duty orders, which includes the assessment of civil penalties against importers who attempt to evade such orders. Current customs laws do not, however, establish a set of specific procedures for interested parties and other Federal agencies to notify CBP of good faith allegations of evasion and a specific process for CBP to take action to prevent evasion.

Description of Proposal

The proposal amends the Tariff Act of 1930 by creating a set of procedures for investigating allegations of evasion of antidumping and countervailing duty orders, under newly-created section 517, as described below.

The proposal requires the Commissioner to initiate an investigation within 10 business days of receipt of a proper allegation or referral that reasonably suggests that merchandise covered by an antidumping and/or countervailing duty order is entering the United States through evasion. The Commissioner may accept allegations by interested parties concerning merchandise that is like or most similar to, merchandise covered by the antidumping and/or countervailing duty order who allege that such covered merchandise is entering the United States through evasion. Referrals may be submitted to the Commissioner by other Federal agencies. 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 proposal requires the Commissioner to make a determination not later than 270 calendar days after the initiation of an investigation with respect to whether there is substantial evidence that the merchandise under investigation was entered through evasion.

The proposal authorizes the Commissioner to request information from the U.S. producer 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 U.S. producer making the allegation, did not act to the best of their ability to provide information requested by the Commissioner.

The proposal requires the Commissioner, no later than 5 business days after making a determination, to notify the U.S. producer who made an allegation that initiated an evasion

investigation of the determination. The Commissioner may also provide importers with information discovered during the investigation if the Commissioner determines that such information would educate importers on adhering to applicable laws and regulations.

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 the initiation of the investigation 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 the Department of 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 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.

In order to ensure that appropriate duties can be collected on entries of covered merchandise made during the pendency of an investigation, the proposal sets forth an "interim measures" mechanism. Under this mechanism, the Commissioner shall determine within 90 calendar days of initiation of an evasion investigation whether there is a reasonable suspicion that entries of covered merchandise that is 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. If the Commissioner determines that the merchandise being investigated poses a health or safety risk, CBP will notify the appropriate Federal agencies of that risk.

The proposal provides a period of 30 business days for the U.S. producer who made the allegation of evasion or the importer of the covered merchandise alleged to have entered by evasion to request de novo administrative review by the Commissioner after notification of a determination. The proposal also amends the Tariff Act of 1930 to provide that determinations of evasion made under newly-created section 517 shall be subject to judicial review once any administrative review of the determination has been completed.

The Secretary of Treasury shall prescribe such regulations as may be necessary to implement the proposal within 180 days of enactment.

Effective Date

The proposal would be effective immediately upon enactment.

ANNUAL REPORT ON PREVENTION AND INVESTIGATION OF EVASION OF
ANTIDUMPING AND COUNTERVAILING DUTY ORDERS

Present Law

No provision.

Description of Proposal

The proposal requires the Commissioner to submit to the relevant committees an annual report on the Commissioner's efforts to deter evasion of antidumping and countervailing duty orders. The report shall be submitted to not later than January 15th each calendar year that begins on or after the date that is 270 days after the enactment of this proposal.

Effective Date

The proposal would be effective immediately upon enactment.

TITLE VI—ADDITIONAL TRADE ENFORCEMENT AND INTELLECTUAL PROPERTY RIGHTS PROTECTION

TRADE ENFORCEMENT PRIORITIES

Present Law

Section 310 of the Trade Act of 1974, requires the United States Trade Representative (USTR) to identify priority foreign country practices, the elimination of which is likely to have the most significant potential to increase United States exports, and to submit to the House Ways and Means Committee and the Senate Finance Committee, and publish in the Federal Register, a report on the priority foreign country practices identified. The USTR is to initiate investigations of all identified priority foreign country practices, and to report on the status of any investigation initiated.

Description of Proposal

The proposal establishes criteria for identifying trade enforcement priorities, and requires the Administration to consult and report on the identification of those priorities and the steps taken to address them. The proposal defines trade enforcement priorities as foreign government acts, policies, or practices that raise concerns with respect to a foreign government's obligations under a U.S. trade agreement, or otherwise create barriers to U.S. trade, and establishes criteria for determining trade enforcement priorities, including the trade barrier's economic significance and effect on U.S. jobs, and the significance of the effect removal of the barrier would have for U.S. economic growth. The proposal requires the USTR take action within a specified period of time in the case of any acts, policies or practices identified as a trade enforcement priority. The proposal requires the USTR consult with and report to the House Ways and Means Committee and the Senate Finance Committee concerning the trade enforcement priorities, and to consult with Committees on actions taken to address U.S. trade enforcement priorities, including ongoing investigations and enforcement actions.

Effective Date

The proposal would be effective as of the calendar year beginning after the date of enactment.

EXERCISE OF WTO AUTHORIZATION TO SUSPEND CONCESSIONS OR OTHER OBLIGATIONS UNDER TRADE AGREEMENTS

Present Law

Section 306 of the Trade Act of 1974, as amended, requires the United States Trade Representative (USTR) to monitor the actions of U.S. trading partners for implementation of and compliance with trade agreements. When the USTR determines that a trading partner has not come into compliance with a recommendation of the World Trade Organization (WTO) Dispute Settlement Body, the USTR is authorized to take certain actions, including suspending, withdrawing, or preventing the application of benefits of trade agreement concessions.

Description of Proposal

The proposal 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.

Effective Date

The proposal would be effective immediately upon enactment.

IMPORT SURGE REPORT

Present Law

Under Chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.), the United States International Trade Commission (Commission) determines under section 2252 (b) whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article, the President, in accordance with this part, shall take all appropriate and feasible action within his power which the President determines will facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs.

Description of Proposal

The proposal requires the Commission 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.

Effective Date

The proposal would be effective immediately upon enactment.

HONEY TRANSSHIPMENT

Present Law

No provision.

Description of Proposal

The proposal requires the Commissioner to direct appropriate personnel and resources to address concerns that honey is being imported into the United States in violation of customs and trade laws. It 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.

The proposal requires the Commissioner to submit a report to Congress that describes and assesses the limitations in existing analysis capabilities of laboratories with respect to determining the country of origin of honey; and that includes any recommendation of the Commissioner for improving such capabilities. It also expresses the sense of Congress that the Commissioner of the Food and Drug Administration should promptly establish a honey national identification standard to (1) ensure that honey imports 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. The report from the Commissioner is due to Congress not later than 180 days after the date of the enactment of this Act.

Effective Date

The proposal would be effective immediately upon enactment.

ILLCITLY IMPORTED, EXPORTED, OR TRAFFICKED CULTURAL PROPERTY OR
ARCHAEOLOGICAL OR ETHNOLOGICAL MATERIALS

Present Law

Current law restricts the importation of archaeological or ethnological materials.

Description of Proposal

The proposal requires the Commissioner and Director of ICE 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. The proposal authorizes the Commissioner and the Director are authorized 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, and fish, wildlife, and plants, described in this section.

Effective Date

The proposal would be effective immediately upon enactment.

ESTABLISHMENT OF CHIEF INNOVATION AND INTELLECTUAL PROPERTY NEGOTIATOR

Present Law

Section 141 of the Trade Act of 1974 (19 U.S.C. 2171) establishes the Office of the United States Trade Representative (USTR). 5 U.S.C. 5314 provides the list of Administration positions for which the rate of pay is set at Level III of the Executive Schedule.

Description of Proposal

The proposal amends Section 141 of the Trade Act of 1974 (19 U.S.C. 2171) by establishing a Chief Innovation and Intellectual Property Negotiator at USTR 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 proposal also amends 5 U.S.C. 5314 to set the pay for this position at Level III of the Executive Schedule, and to provide a technical correction regarding the title of the Chief Agricultural Negotiator, Office of the United States Trade Representative.

The proposal further requires the USTR to submit an annual report to the Senate Finance Committee and the House Ways and Means Committee detailing the enforcement actions taken 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.

Effective Date

The proposal would be effective immediately upon enactment.

MEASURES RELATING TO COUNTRIES THAT DENY ADEQUATE PROTECTION FOR INTELLECTUAL PROPERTY RIGHTS

Present Law

Section 182 of the Trade Act of 1974 (19 U.S.C. 2242) provides that the United States Trade Representative (USTR) must issue an annual “Special 301” report that, among other things, identifies foreign countries that deny adequate and effective protection of intellectual property rights.

Description of Proposal

The proposal amends Section 182 of the Trade Act of 1974 (19 U.S.C. 2242) by amending the definition of a foreign country that denies adequate and effective protection of intellectual property rights to require USTR to identify foreign countries that deny adequate and effective protection of trade secrets as part of its annual “Special 301” report.

The proposal also amends Section 182 of the Trade Act of 1974 (19 U.S.C. 2242) to require USTR to develop an action plan for foreign countries that have spent at least one year on the priority watch list that is established by USTR as part of its annual “Special 301” report. The action plan calls for such countries to meet benchmarks designed to assist them to achieve: (1) effective protection of intellectual property rights; and (2) equitable market access for U.S. persons that rely upon intellectual property protections. The proposal 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 the House Committee on Ways and Means and the Senate Committee on Finance a report on the action plans and the progress in achieving the action plan benchmarks.

Effective Date

The proposal would be effective immediately upon enactment.

TITLE VII—ADDITIONAL MISCELLANEOUS PROVISIONS

INCLUSION OF CERTAIN INFORMATION IN SUBMISSION OF NOMINATION FOR APPOINTMENT AS DEPUTY UNITED STATES TRADE REPRESENTATIVE

Present Law

Section 141 of the Trade Act of 1974 establishes in the Office of the United States Trade Representative three Deputy United States Trade Representatives.

Description of Proposal

The proposal 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.

Effective Date

The proposal would be effective immediately upon enactment.

BIENNIAL REPORTS REGARDING COMPETITIVENESS ISSUES FACING THE UNITED STATES ECONOMY AND COMPETITIVE CONDITIONS FOR CERTAIN KEY UNITED STATES INDUSTRIES

Present Law

No provision

Description of Proposal

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

The United States International Trade Commission shall submit the report no later than May 15, 2017 and every 2 years thereafter until 2025.

Effective Date

The proposal would be effective immediately upon enactment.

REPORT ON CERTAIN U.S. CUSTOMS AND BORDER PROTECTION AGREEMENTS

Present Law

Section 560 of the department of Homeland Security Appropriations, 2013 (division D of Public Law 113-6; 127 Stat. 378) authorizes U.S. Customs and border Protection (CBP) to enter into no more than five agreements to provide new or enhanced services on a reimbursable basis in any of CBP's non-foreign operational environments.

Section 559 of the Department of Homeland Security Appropriations Act, 2014 (division F of Public Law 113-76; 6 U.S.C. 211 Note) authorizes CBP to enter into partnerships with private sector and government entities at ports of entry to reimburse the costs of certain CBP services and to accept donations of real and personal property (including monetary donations) and non-personal services. Reimbursable services under Section 559 include customs,

immigration, and agricultural processing; salaries for additional staff; and overtime expenses at airports.

Description of Proposal

The proposal requires the Commissioner to submit to the relevant committees 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.

Effective Date

The proposal would be effective immediately upon enactment.

CHARTER FLIGHTS

Present Law

Section 13031(e)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(1)) requires CBP to provide customs services to passengers upon arrival in the United States in connection with scheduled airline flights.

Description of Proposal

The proposal 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.

Effective Date

The proposal would be effective immediately upon enactment.

AMENDMENT TO TARIFF ACT OF 1930 TO REQUIRE COUNTRY OF ORIGIN
MARKING OF CERTAIN CASTINGS

Present Law

Section 304(e) of the Tariff Act of 1930 (19 U.S.C. 1304(e)) lists imports that must always include a country of origin marking.

Description of Proposal

The proposal amends section 304(e) of the Tariff Act of 1930 (19 U.S.C. 1304(e)) to include lampposts, lamppost bases, and cast utility poles 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.

Effective Date

The amendments made by this section shall apply with respect to the importation of castings on or after the date that is 15 days after the enactment of this proposal.