

(Pub. L. 114-26, title I, §111, June 29, 2015, 129 Stat. 358.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this title”, meaning title I of Pub. L. 114-26, June 29, 2015, 129 Stat. 320, which is classified principally to this chapter. For complete classification of title I to the Code, see Short Title note set out under section 4201 of this title and Tables.

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§ 4301. Definitions

In this chapter:

(1) Automated Commercial Environment

The term “Automated Commercial Environment” means the Automated Commercial Environment computer system authorized under section 58c(f)(4) of this title.

(2) Commercial operations of U.S. Customs and Border Protection

The term “commercial operations of U.S. Customs and Border Protection” includes—

- (A) administering any customs revenue function (as defined in section 215 of title 6);
 (B) coordinating efforts of the Department of Homeland Security with respect to trade facilitation and trade enforcement;

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

- (i) investigations relating to trade enforcement; and
- (ii) the development and implementation of the joint strategic plan required by section 4314 of this title;

(D) coordinating, on behalf of the Department of Homeland Security, efforts among Federal agencies to facilitate legitimate trade and to enforce the customs and trade laws of the United States, including representing the Department of Homeland Security in interagency fora addressing such efforts;

(E) coordinating with customs authorities of foreign countries to facilitate legitimate international trade and enforce the customs and trade laws of the United States and the customs and trade laws of foreign countries;

(F) collecting, assessing, and disseminating information as appropriate and in accordance with any law regarding cargo destined for the United States—

- (i) to ensure that such cargo complies with the customs and trade laws of the United States; and
- (ii) to facilitate the legitimate international trade of such cargo;

(G) soliciting and considering on a regular basis input from private sector entities, including the Commercial Customs Operations Advisory Committee established by section 4316 of this title and the Trade Support Network, with respect to, as appropriate—

- (i) the implementation of changes to the customs and trade laws of the United States; and
- (ii) the development, implementation, or revision of policies or regulations administered by U.S. Customs and Border Protection; and

(H) otherwise advising the Secretary of Homeland Security with respect to the development of policies associated with facilitating legitimate trade and enforcing the customs and trade laws of the United States.

(3) Commissioner

The term “Commissioner” means the Commissioner of U.S. Customs and Border Protection, as described in section 211(b) of title 6.

(4) Customs and trade laws of the United States

The term “customs and trade laws of the United States” includes the following:

- (A) The Tariff Act of 1930 (19 U.S.C. 1202 et seq.).
- (B) Section 3 of this title.
- (C) Section 6 of this title.
- (D) The Act of March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 2071 et seq.).
- (E) Section 58c of this title.
- (F) Section 66 of this title.
- (G) Section 68 of this title.
- (H) The Act of June 18, 1934 (48 Stat. 998, chapter 590; 19 U.S.C. 81a et seq.; commonly known as the “Foreign Trade Zones Act”).

(I) Section 198 of this title.

(J) The Trade Act of 1974 (19 U.S.C. 2101 et seq.).

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

(L) The North American Free Trade Agreement Implementation Act (19 U.S.C. 3301 et seq.).¹

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

(N) The Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.).

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

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

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

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

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

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

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

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

(W) The Act of August 7, 1939 (53 Stat. 1262, chapter 566).

(X) The Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (Public Law 114-26; 19 U.S.C. 4201 et seq.).

(Y) The Trade Preferences Extension Act of 2015 (Public Law 114-27; 129 Stat. 362).

(Z) Any other provision of law implementing a trade agreement.

(AA) Any other provision of law vesting customs revenue functions in the Secretary of the Treasury.

(BB) Any other provision of law relating to trade facilitation or trade enforcement that is administered by U.S. Customs and Border Protection on behalf of any Federal agency that is required to participate in the International Trade Data System established under section 411(d) of the Tariff Act of 1930 (19 U.S.C. 1411(d)).

(CC) Any other provision of customs or trade law administered by U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement.

(5) Private sector entity

The term “private sector entity” means—

- (A) an importer;
- (B) an exporter;
- (C) a forwarder;
- (D) an air, sea, or land carrier or shipper;
- (E) a contract logistics provider;
- (F) a customs broker; or
- (G) any other person (other than an employee of a government) affected by the implementation of the customs and trade laws of the United States.

(6) Trade enforcement

The term “trade enforcement” means the enforcement of the customs and trade laws of the United States.

¹ See References in Text note below.

(7) Trade facilitation

The term “trade facilitation” refers to policies and activities of U.S. Customs and Border Protection with respect to facilitating the movement of merchandise into and out of the United States in a manner that complies with the customs and trade laws of the United States.

(Pub. L. 114–125, § 2, Feb. 24, 2016, 130 Stat. 124.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning Pub. L. 114–125, Feb. 24, 2016, 130 Stat. 122, known as the Trade Facilitation and Trade Enforcement Act of 2015, which, for purposes of defined terms, is classified principally to this chapter. For complete classification of Pub. L. 114–125 to the Code, see Short Title note set out below and Tables.

The Tariff Act of 1930, referred to in par. (4)(A), is act June 17, 1930, ch. 497, 46 Stat. 590, which is classified generally to chapter 4 (§1202 et seq.) of this title. For complete classification of this Act to the Code, see section 1654 of this title and Tables.

Act of March 3, 1927, referred to in par. (4)(D), is act Mar. 3, 1927, ch. 348, 44 Stat. 1381, which is classified principally to sections 2071 to 2073 of this title. For complete classification of this Act to the Code, see Tables.

Act of June 18, 1934, referred to in par. (4)(H), is act June 18, 1934, ch. 590, 48 Stat. 998, popularly known as the Foreign Trade Zones Act, which is classified generally to chapter 1A (§81a et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 81a of this title and Tables.

The Trade Act of 1974, referred to in par. (4)(J), is Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978, which is classified principally to chapter 12 (§2101 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 2101 of this title and Tables.

The Trade Agreements Act of 1979, referred to in par. (4)(K), is Pub. L. 96–39, July 26, 1979, 93 Stat. 144. For complete classification of this Act to the Code, see References in Text note set out under section 2501 of this title and Tables.

The North American Free Trade Agreement Implementation Act, referred to in par. (4)(L), is Pub. L. 103–182, Dec. 8, 1993, 107 Stat. 2057, which was repealed by Pub. L. 116–113, title VI, §601, Jan. 29, 2020, 134 Stat. 78, effective on the date on which the USMCA entered into force (July 1, 2020). For complete classification of this Act to the Code, see Short Title note under former section 3301 of this title and Tables.

The Uruguay Round Agreements Act, referred to in par. (4)(M), is Pub. L. 103–465, Dec. 8, 1994, 108 Stat. 4809. For complete classification of this Act to the Code, see Short Title note set out under section 3501 of this title and Tables.

The Caribbean Basin Economic Recovery Act, referred to in par. (4)(N), is title II of Pub. L. 98–67, Aug. 5, 1983, 97 Stat. 384, which is classified principally to chapter 15 (§2701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

The Andean Trade Preference Act, referred to in par. (4)(O), is title II of Pub. L. 102–182, Dec. 4, 1991, 105 Stat. 1236, which is classified generally to chapter 20 (§3201 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3201 of this title and Tables.

The African Growth and Opportunity Act, referred to in par. (4)(P), is title I of Pub. L. 106–200, May 18, 2000, 114 Stat. 252, which is classified principally to chapter 23 (§3701 et seq.) of this title. For complete classifica-

tion of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables.

The Customs Enforcement Act of 1986, referred to in par. (4)(Q), is subtitle B of title III of Pub. L. 99–570, Oct. 27, 1986, 100 Stat. 3207–79. For complete classification of this Act to the Code, see Short Title of 1986 Amendment note set out under section 1654 of this title and Tables.

The Customs and Trade Act of 1990, referred to in par. (4)(R), is Pub. L. 101–382, Aug. 20, 1990, 104 Stat. 629. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 2101 of this title and Tables.

The Customs Procedural Reform and Simplification Act of 1978, referred to in par. (4)(S), is Pub. L. 95–410, Oct. 3, 1978, 92 Stat. 888. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 1654 of this title and Tables.

The Trade Act of 2002, referred to in par. (4)(T), is Pub. L. 107–210, Aug. 6, 2002, 116 Stat. 933. For complete classification of this Act to the Code, see Short Title note set out under section 3801 of this title and Tables.

The Convention on Cultural Property Implementation Act, referred to in par. (4)(U), is title III of Pub. L. 97–446, Jan. 12, 1983, 96 Stat. 2350, which is classified generally to chapter 14 (§2601 et seq.) of this title. For complete classification of this title to the Code, see Short Title note set out under section 2601 of this title and Tables.

Act of March 28, 1928, referred to in par. (4)(V), is act Mar. 28, 1928, ch. 266, 45 Stat. 374, which is classified generally to sections 2077 to 2080 of this title. For complete classification of this Act to the Code, see Tables.

Act of August 7, 1939, referred to in par. (4)(W), is act Aug. 7, 1939, ch. 566, 53 Stat. 1262, which is classified generally to 2077 to 2080 of this title. For complete classification of this Act to the Code, see Tables.

The Bipartisan Congressional Trade Priorities and Accountability Act of 2015, referred to in par. (4)(X), is title I of Pub. L. 114–26, June 29, 2015, 129 Stat. 320, which is classified principally to chapter 27 (§4201 et seq.) of this title. For complete classification of title I to the Code, see Short Title note set out under section 4201 of this title and Tables.

The Trade Preferences Extension Act of 2015, referred to in par. (4)(Y), is Pub. L. 114–27, June 29, 2015, 129 Stat. 362. For complete classification of this Act to the Code, see Short Title of 2015 Amendment note set out under section 2101 of this title and Tables.

Statutory Notes and Related Subsidiaries

SHORT TITLE

Pub. L. 114–125, §1(a), Feb. 24, 2016, 130 Stat. 122, provided that: “This Act [see Tables for classification] may be cited as the ‘Trade Facilitation and Trade Enforcement Act of 2015’.”

Pub. L. 114–125, title IV, §401, Feb. 24, 2016, 130 Stat. 155, provided that: “This title [enacting subchapter IV of this chapter and section 1517 of this title, amending sections 1675 and 1677f of this title and section 1581 of Title 28, Judiciary And Judicial Procedure, and enacting provisions set out as notes under section 1517 of this title] may be cited as the ‘Enforce and Protect Act of 2015’.”

Pub. L. 114–125, title VIII, §801, Feb. 24, 2016, 130 Stat. 199, provided that: “This title [see Tables for classification] may be cited as the ‘U.S. Customs and Border Protection Authorization Act’.”

Pub. L. 114–125, title VIII, §811, Feb. 24, 2016, 130 Stat. 217, provided that: “This subtitle [subtitle B (§§811–819) of title VIII of Pub. L. 114–125, enacting subchapter VII of this chapter and amending section 8311 of Title 7, Agriculture, section 1356 of Title 8, Aliens and Nationality, and section 44901 of Title 49, Transportation] may be cited as the ‘Preclearance Authorization Act of 2015’.”

Executive Documents

EX. ORD. NO. 13785. ESTABLISHING ENHANCED COLLECTION AND ENFORCEMENT OF ANTIDUMPING AND COUNTERVAILING DUTIES AND VIOLATIONS OF TRADE AND CUSTOMS LAWS

Ex. Ord. No. 13785, Mar. 31, 2017, 82 F.R. 16719, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to promote the efficient and effective administration of United States trade laws, it is hereby ordered as follows:

SECTION 1. Policy. Importers that unlawfully evade antidumping and countervailing duties expose United States employers to unfair competition and deprive the Federal Government of lawful revenue. As of May 2015, \$2.3 billion in antidumping and countervailing duties owed to the Government remained uncollected, often from importers that lack assets located in the United States. It is therefore the policy of the United States to impose appropriate bonding requirements, based on risk assessments, on entries of articles subject to antidumping and countervailing duties, when necessary to protect the revenue of the United States.

SEC. 2. Definitions. For the purposes of this order:

(a) the term “importer” has the meaning given in section 4321 of title 19, United States Code; and

(b) the term “covered importer” means any importer of articles subject to antidumping or countervailing duties for which one of the following is true: U.S. Customs and Border Protection (CBP) has no record of previous imports by the importer; CBP has a record of the importer’s failure to fully pay antidumping or countervailing duties; or CBP has a record of the importer’s failure to pay antidumping or countervailing duties in a timely manner.

SEC. 3. Implementation Plan Development. Within 90 days of the date of this order, the Secretary of Homeland Security shall, in consultation with the Secretary of the Treasury, the Secretary of Commerce, and the United States Trade Representative, develop a plan that would require covered importers that, based on a risk assessment conducted by CBP, pose a risk to the revenue of the United States, to provide security for antidumping and countervailing duty liability through bonds and other legal measures, and also would identify other appropriate enforcement measures. This plan shall be consistent with the requirements of section 4321 and section 1623 of title 19, United States Code, and corresponding regulations.

SEC. 4. Trade and Suspected Customs Law Violations Enforcement. (a) Within 90 days of the date of this order, the Secretary of Homeland Security, through the Commissioner of CBP, shall develop and implement a strategy and plan for combating violations of United States trade and customs laws for goods and for enabling interdiction and disposal, including through methods other than seizure, of inadmissible merchandise entering through any mode of transportation, to the extent authorized by law.

(b) To ensure the timely and efficient enforcement of laws protecting Intellectual Property Rights (IPR) holders from the importation of counterfeit goods, the Secretary of the Treasury and the Secretary of Homeland Security shall take all appropriate steps, including rulemaking if necessary, to ensure that CBP can, consistent with law, share with rights holders:

(i) any information necessary to determine whether there has been an IPR infringement or violation; and

(ii) any information regarding merchandise voluntarily abandoned, as defined in section 127.12 of title 19, Code of Federal Regulations, before seizure, if the Commissioner of CBP reasonably believes that the successful importation of the merchandise would have violated United States trade laws.

SEC. 5. Priority Enforcement. The Attorney General, in consultation with the Secretary of Homeland Security, shall develop recommended prosecution practices and allocate appropriate resources to ensure that Federal

prosecutors accord a high priority to prosecuting significant offenses related to violations of trade laws.

SEC. 6. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

EX. ORD. NO. 13796. ADDRESSING TRADE AGREEMENT VIOLATIONS AND ABUSES

Ex. Ord. No. 13796, Apr. 29, 2017, 82 F.R. 20819, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. Policy. Every trade agreement and investment agreement entered into by the United States, and all trade relations and trade preference programs of the United States, should enhance our economic growth, contribute favorably to our balance of trade, and strengthen the American manufacturing base. Many United States free trade agreements, investment agreements, and trade relations have failed, in whole or in part, to meet these criteria. The result has been large and persistent trade deficits, a lack of reciprocal treatment of American goods and investment, the offshoring of factories and jobs, the loss of American intellectual property and reduced technological innovation, downward pressure on wage and income growth, and an impaired tax base. It is the policy of the United States to negotiate new trade agreements, investment agreements, and trade relations that benefit American workers and domestic manufacturers, farmers, and ranchers; protect our intellectual property; and encourage domestic research and development. It is also the policy of the United States to renegotiate or terminate any existing trade agreement, investment agreement, or trade relation that, on net, harms the United States economy, United States businesses, United States intellectual property rights and innovation rate, or the American people.

SEC. 2. Conduct Performance Reviews. The Secretary of Commerce and the United States Trade Representative (USTR), in consultation with the Secretary of State, the Secretary of the Treasury, the Attorney General, and the Director of the Office of Trade and Manufacturing Policy, shall conduct comprehensive performance reviews of:

(a) all bilateral, plurilateral, and multilateral trade agreements and investment agreements to which the United States is a party; and

(b) all trade relations with countries governed by the rules of the World Trade Organization (WTO) with which the United States does not have free trade agreements but with which the United States runs significant trade deficits in goods.

SEC. 3. Report of Violations and Abuses. (a) Each performance review shall be submitted to the President by the Secretary of Commerce and the USTR within 180 days of the date of this order and shall identify:

(i) those violations or abuses of any United States trade agreement, investment agreement, WTO rule governing any trade relation under the WTO, or trade preference program that are harming American workers or domestic manufacturers, farmers, or ranchers; harming our intellectual property rights; reducing our rate of innovation; or impairing domestic research and development;

(ii) unfair treatment by trade and investment partners that is harming American workers or domestic manufacturers, farmers, or ranchers; harming our intellectual property rights; reducing our rate of innovation; or impairing domestic research and development;

(iii) instances where a trade agreement, investment agreement, trade relation, or trade preference program has failed with regard to such factors as predicted new jobs created, favorable effects on the trade balance, expanded market access, lowered trade barriers, or increased United States exports; and

(iv) lawful and appropriate actions to remedy or correct deficiencies identified pursuant to subsections (a)(i) through (a)(iii) of this section.

(b) The findings of the performance reviews required by this order shall help guide United States trade policy and trade negotiations.

SEC. 4. *Remedy of Trade Violations and Abuses.* The Secretary of Commerce, the USTR, and other heads of executive departments and agencies, as appropriate, shall take every appropriate and lawful action to address violations of trade law, abuses of trade law, or instances of unfair treatment.

SEC. 5. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

EX. ORD. NO. 13904. ENSURING SAFE AND LAWFUL E-COMMERCE FOR UNITED STATES CONSUMERS, BUSINESSES, GOVERNMENT SUPPLY CHAINS, AND INTELLECTUAL PROPERTY RIGHTS HOLDERS

Ex. Ord. No. 13904, Jan. 31, 2020, 85 F.R. 6725, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Policy.* E-commerce, including transactions involving smaller express-carrier or international mail packages, is being exploited by traffickers to introduce contraband into the United States, and by foreign exporters and United States importers to avoid applicable customs duties, taxes, and fees.

It is the policy of the United States Government to protect consumers, intellectual property rights holders, businesses, and workers from counterfeit goods, narcotics (including synthetic opioids such as fentanyl), and other contraband now being introduced into the United States as a result of the recent growth in e-commerce. The United States Government must also protect the revenue of the United States from individuals and entities who evade customs duties, taxes, and fees.

It is the policy of the United States Government that any person who knowingly, or with gross negligence, imports, or facilitates the importation of, merchandise into the United States in material violation of Federal law evidences conduct of so serious and compelling a nature that it should be referred to U.S. Customs and Border Protection (CBP) of the Department of Homeland Security for a determination whether such conduct affects that person's present responsibility to participate in transactions with the Federal Government.

It is the policy of the United States Government, as reflected in Executive Order 12549 of February 18, 1986 (Debarment and Suspension) [31 U.S.C. 6101 note], and elsewhere, to protect the public interest and ensure the integrity of Federal programs by transacting only with

presently responsible persons. In furtherance of this policy, the nonprocurement debarment and suspension system enables executive departments and agencies to exclude from Federal programs persons who are not presently responsible. CBP implements this system by suspending and debarring persons who flout the customs laws, among other persons who lack present responsibility. To achieve the policy goals stated herein, the United States Government shall consider all appropriate actions that it can take to ensure that persons that CBP suspends or debarres are excluded from participating in the importation of merchandise into the United States.

It is the policy of the United States Government that express consignment operators, carriers, hub facilities, international posts, customs brokers, and other entities, including e-commerce platform operators, should not facilitate importation involving persons who are suspended or debarred by CBP.

It is the policy of the United States Government to ensure that parcels containing contraband be kept outside of the United States to the greatest extent possible and that all parties who participate in the introduction or attempted introduction of such parcels into the United States be held accountable under the laws of the United States.

SEC. 2. *Criteria for the Importer of Record Program, Including Exclusion of Trade Violators.* (a) The Secretary of Homeland Security shall issue a notice of proposed rulemaking to establish criteria importers must meet in order to obtain an importer of record number.

(b) Such criteria shall include a criterion providing that any person debarred or suspended by CBP for lack of present responsibility for reasons related to importation or trade shall be ineligible to obtain an importer of record number for the duration of such person's suspension or debarment by CBP.

SEC. 3. *Responsibilities of Express Consignment Operators, Carriers, Hub Facilities, and Licensed Customs Brokers.* (a) Consistent with applicable law, the Secretary of Homeland Security, through the Commissioner of CBP, shall take steps to ensure that, within 60 days of the publication in the System for Award Management by CBP of the name of any debarred or suspended person, express consignment operators, carriers, hub facilities, and licensed customs brokers notify CBP of any attempt, of which they know or have reason to believe, by any persons who may not obtain an importer of record number based on any criteria established by the Secretary under section 2 of this order, to re-establish business activity requiring an importer of record number through a different name or address associated with the debarred or suspended person.

(b) The Secretary of Homeland Security, through the Commissioner of CBP, shall consider appropriate measures, consistent with applicable law, to ensure that express consignment operators, carriers, hub facilities, and licensed customs brokers cease to facilitate business activity that requires an importer of record number by any person who may not obtain an importer of record number, as provided by any criteria established by the Secretary under section 2 of this order. Depending on the criteria established, such consideration shall include whether CBP may take any of the following measures: limiting an express consignment operator's, carrier's, or hub facility's participation in any CBP trusted trader programs; taking appropriate action with regard to an express consignment operator's, carrier's, or hub facility's operating privileges; or suspending or revoking a customs broker's license.

SEC. 4. *Items Sent to the United States through the International Postal Network.* (a) The United States Postal Service (USPS) should collaborate with the Secretary of State to notify the international postal network, via circular or the functional equivalent, of the policy of the United States Government set forth in section 1 of this order and the key provisions of this order. USPS should make all reasonable efforts to include provisions regarding any criteria for participating in the importer of record program established under section 2 of

this order in any new contractual instruments it executes with international posts.

(b) Within 90 days from the date of this order [Jan. 31, 2020], the Secretary of Homeland Security, through the Commissioner of CBP, and in consultation with USPS, shall submit to the President a report on any appropriate measures the Federal Government could take, including negotiating with international posts, to prevent the importation or attempted importation into the United States through the international postal network of shipments containing goods, when such importation or attempted importation is known to have been facilitated by any person who may not obtain an importer of record number under any criteria established by the Secretary under section 2 of this order.

SEC. 5. Non-Compliant International Posts. (a) The Secretary of Homeland Security, through the Commissioner of CBP, and in consultation with the United States Trade Representative, shall develop an International Mail Non-Compliance metric, based on relevant factors, to formulate an overall compliance score for each international post. This score shall take into account rates of trafficking of counterfeit goods, narcotics (including synthetic opioids such as fentanyl), and other contraband through a particular international post, effectiveness of the international post in reducing such trafficking, including cooperation with CBP, as well as such other factors the Secretary, through the Commissioner, determines advisable. The Secretary shall update overall compliance scores on a quarterly basis. The Secretary shall determine a minimum threshold compliance score for each quarter and shall deem non-compliant any international post that scores below such threshold in that quarter.

(b) The Secretary of Homeland Security shall prioritize targeted inspection of imports into the United States from any international post that for two or more consecutive quarters is deemed a non-compliant international post.

(c) Consistent with applicable law, the Secretary of Homeland Security, through the Commissioner of CBP, in consultation with USPS, may require additional information for any shipment from any international post that for six or more consecutive quarters is deemed a non-compliant international post. The Secretary of Homeland Security, through the Commissioner of CBP, shall, to the extent consistent with applicable law and international agreements, implement all appropriate measures to prevent importation into the United States of any shipments dispatched from any international post that is deemed a non-compliant international post for six or more consecutive quarters and for which the additional information required consistent with this subsection is not promptly provided. USPS should collaborate with CBP in implementing these measures.

(d) The Secretary of Homeland Security, through the Commissioner of CBP, and in consultation with USPS, shall, to the maximum extent permitted by applicable law, take measures to protect the United States from shipments from any international post that for eight or more consecutive quarters is deemed a non-compliant international post. To the extent consistent with applicable law and as appropriate, such measures might include preventing the importation into the United States of shipments dispatched from such posts, regardless of whether additional information required by CBP is provided. Within 90 days of the date of this order, the Secretary of Homeland Security, through the Commissioner of CBP, and in consultation with USPS, shall submit a report to the President analyzing what measures CBP may take consistent with its existing authorities.

(e) Within 90 days of the date of this order, the Secretary of Homeland Security, through the Commissioner of CBP, shall publish and regularly update appropriate guidance related to CBP's implementation of this section, including the process by which an international post is deemed a non-compliant international post and the process by which an international post is

removed from the list of non-compliant international posts.

SEC. 6. Publication of Violation Information; Enhanced Enforcement Efforts. (a) On a periodic basis, and consistent with Federal law and executive branch policy reflecting non-disclosure of sensitive information, the Secretary of Homeland Security, through the Commissioner of CBP and the Director of United States Immigration and Customs Enforcement, shall publish information about seizures arising in the international mail and express consignment environments that involve intellectual property rights violations, illegal drugs and other contraband, incorrect country of origin, undervaluation, or other violations of law of particular concern. In determining which information to publish, the Secretary shall give greatest consideration to repeat offenses affecting priority trade issues as defined in 19 U.S.C. 4322.

(b) Within 60 days of the date of this order, the Attorney General shall assign appropriate resources to ensure that Federal prosecutors accord a high priority to prosecuting offenses related to import violations as described in this order, including, as appropriate and within existing appropriations, increasing the number of Department of Justice officials who will enforce criminal or civil laws, as appropriate, related to the importation of merchandise.

SEC. 7. Report on Sufficiency of Fees. Within 210 days of the date of this order, the Secretary of Homeland Security, in coordination with the heads of other executive departments and agencies, as appropriate, shall submit a report to the President, through the Director of the Office of Management and Budget:

(a) analyzing whether the fees collected by CBP are currently set at a sufficient level to reimburse the Federal Government's costs associated with processing, inspecting, and collecting duties, taxes, and fees for parcels; and

(b) providing recommendations, consistent with applicable law, regarding any fee adjustments that are necessary to reimburse the Federal Government's costs associated with processing, inspecting, and collecting duties, taxes, and fees for parcels.

SEC. 8. Definitions. For the purposes of this order:

(a) "Customs broker" has the meaning given to that term in 19 U.S.C. 1641(a)(1).

(b) "Express consignment operator, carrier, or hub facility" has the meaning given to those terms in 19 CFR 128.1.

(c) "International post" means any foreign public or private entity providing various types of postal services, including mailing and delivery services.

(d) "Contraband" has the meaning given to that term in 49 U.S.C. 80302(a), and also means any goods or merchandise otherwise prohibited from importation or entry under the Tariff Act of 1930 [19 U.S.C. 1202 et seq.], as amended.

(e) "E-commerce platform" means any web-based platform that includes features primarily designed for arranging the sale, purchase, payment, or shipping of goods, or that enables sellers not directly affiliated with an operator of a web-based platform to sell physical goods through the web to consumers located in the United States.

(f) "Person" means any individual, corporation, partnership, association, or legal entity, however organized.

SEC. 9. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the

United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP.

SUBCHAPTER I—TRADE FACILITATION
AND TRADE ENFORCEMENT

§ 4311. Improving partnership programs

(a) In general

In order to advance the security, trade enforcement, and trade facilitation missions of U.S. Customs and Border Protection, the Commissioner shall ensure that partnership programs of U.S. Customs and Border Protection established before February 24, 2016, such as the Customs–Trade Partnership Against Terrorism established under subtitle B of title II of the Security and Accountability for Every Port Act of 2006 (6 U.S.C. 961 et seq.), and partnership programs of U.S. Customs and Border Protection established on or after February 24, 2016, provide trade benefits to private sector entities that meet the requirements for participation in those programs established by the Commissioner under this section.

(b) Elements

In developing and operating partnership programs under subsection (a), the Commissioner shall—

(1) consult with private sector entities, the public, and other Federal agencies when appropriate, to ensure that participants in those programs receive commercially significant and measurable trade benefits, including providing preclearance of merchandise for qualified persons that demonstrate the highest levels of compliance with the customs and trade laws of the United States, regulations of U.S. Customs and Border Protection, and other requirements the Commissioner determines to be necessary;

(2) ensure an integrated and transparent system of trade benefits and compliance requirements for all partnership programs of U.S. Customs and Border Protection;

(3) consider consolidating partnership programs in situations in which doing so would support the objectives of such programs, increase participation in such programs, enhance the trade benefits provided to participants in such programs, and enhance the allocation of the resources of U.S. Customs and Border Protection;

(4) coordinate with the Director of U.S. Immigration and Customs Enforcement, and other Federal agencies with authority to detain and release merchandise entering the United States—

(A) to ensure coordination in the release of such merchandise through the Automated Commercial Environment, or its predecessor, and the International Trade Data System established under section 1411(d) of this title;

(B) to ensure that the partnership programs of those agencies are compatible with the partnership programs of U.S. Customs and Border Protection;

(C) to develop criteria for authorizing the release, on an expedited basis, of merchan-

dise 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 with the customs and trade laws of the United States 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.

(c) Report required

Not later than the date that is 180 days after February 24, 2016, and not later than December 31 of each calendar year thereafter, the Commissioner shall submit to the appropriate congressional committees a report that—

(1) identifies each partnership program referred to in subsection (a);

(2) for each such program, identifies—

(A) the requirements for participants in the program;

(B) the commercially significant and measurable trade benefits provided to participants in the program;

(C) the number of participants in the program; and

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

(3) identifies the number of participants enrolled in more than one such partnership program;

(4) assesses the effectiveness of each such partnership program in advancing the security, trade enforcement, and trade facilitation missions of U.S. Customs and Border Protection, based on historical developments, the level of participation in the program, and the evolution of benefits provided to participants in the program;

(5) summarizes the efforts of U.S. Customs and Border Protection to work 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 partnership programs of U.S. Customs and Border Protection;

(6) summarizes criteria developed with those agencies 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;

(7) summarizes the efforts of U.S. Customs and Border Protection to work with private sector entities and the public to develop and improve such partnership programs;

(8) describes measures taken by U.S. Customs and Border Protection to make private sector entities aware of the trade benefits available to participants in such partnership programs; and

(9) summarizes the plans, targets, and goals of U.S. Customs and Border Protection with respect to such partnership programs for the 2 years following the submission of the report.