

Customs Facilitation Discussion Draft

Sen. Cassidy (R-LA) & Sen. Cortez Masto (D-NV)

Title I. One United States Government at the Border

Section 101: Border Interagency Executive Council

- This section codifies the Border Interagency Executive Council (BIEC), which was created by executive order in 2014 with the mission of streamlining import/export processes for American businesses. Establishing the BIEC in statute will provide greater ability for BIEC participating agencies to reduce red tape in trade.

Section 102: Establishment of Import and Export Cargo Processing System

- This section requires the Secretary of Homeland Security to ensure that a uniform automated platform provides a system for the processing and release of cargo being imported into and exported from the United States. The system is required to implement a whole-of-government approach to trade processing capabilities, ensuring that all trade data can be submitted and processed in one place. It also implements a pilot program in which the Department tests product design with industry.

Section 103: Modernization of the Automated Commercial Environment

- This section requires continuous modernization of the processing system and collaboration with other agencies.

Section 104: Authorization of Appropriations

- This section authorizes appropriations to carry out sections 102 and 103.

Title II. Modernizing Customs Processes

Section 201: Simplification of Drawback Procedures

- This section addresses lengthy processing delays in the duty drawback export promotion program by allowing for an accelerated payment of duty drawbacks, which are refunds on duties on imported items that are re-exported, for all claims where a bond is filed securing repayment of 100% of the claimed refund and where the claimant has provided supporting documentation.

Section 202: Streamlined Export Processes

- This section requires the Secretary of Commerce, in coordination with the Commissioner of U.S Customs and Border Protection, to issue regulations allowing for export manifest data and documentation to be submitted prior to departure. It requires that the regulations avoid any redundant data submission requirements to ensure agencies share information.

Section 203: Treatment of Clerical Errors in Submissions of Export Data

- This section clarifies that clerical errors in submissions of export data shall be exempt from penalties, so long as they are not part of a pattern of violative conduct. This aligns the treatment of clerical errors in export data with that of import data.

Section 204: Government Accountability Office Study of CBP Fee Schedule

- This section provides that the GAO conduct a study of CBP's fee schedule to make any recommendations for changes to Congress that reduce compliance costs and remove unnecessary red tape.

Section 205: Improvements to Centers of Excellence and Expertise

- This section provides that CBP's Centers of Excellence and Expertise shall develop and distribute guidance on compliance with trade laws to improve industry cooperation and transparency.

Title III. Improving Data Transparency

Section 301: Requirements for Regulations Relating to Data Collection for Trade Enforcement

- This section provides requirements for CBP and other agencies to follow when issuing new regulations requiring additional data be submitted to the agency, including that they consider views of a diverse set of parties, that they consider what data is actually available to businesses, that they work to avoid redundant data elements, and that they work with the USPS to share information on mail shipments.

Section 302: Updates to the US Customs and Border Protection Website and CTPAT Handbook

- This section requires that CBP provide a notification when it makes changes "minimum security criteria" requirements necessary for importers to participate in the Customs-Trade Partnership Against Terrorism program. It also provides that CBP consult with the trade community on CTPAT Handbook updates. Finally, it requires constructive and detailed context for best practices for mitigating forced labor in supply chains be added to the CTPAT Handbook to enhance customs-trade cooperation on rooting out forced labor from supply chains.

Section 303: Establishment of Deadlines for Agency Responses to Trade Community Requests

- This section provides that CBP review its regulations for any current deadlines governing its responsiveness for rulings and decisions and improve them where practicable. It also requires a GAO study on CBP response times and any recommendations for improvements.

Section 304: Accessibility of Contact Information for CBP and Centers of Excellence

- This section requires CBP to provide points of contact at CBP headquarters, ports of entry, and Centers of Excellence that serve as liaisons for trade community inquiries.