CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

May 12, 2015

Trade Facilitation and Trade Enforcement Act of 2015

As ordered reported by the Senate Committee on Finance on April 22, 2015

SUMMARY

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

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

- Increase the funds available for distribution to eligible parties under the Continued Dumping and Subsidy Offset Act (CDSOA);

- Extend the authority to collect and increase the rate of certain customs user fees;

- Improve the claims process for refunds on duties paid for certain imported merchandise and increase the minimum value of goods for which duties must be paid;

- Deny passport applications, and allow existing passports to be revoked, for individuals with certain tax debt;

- Authorize the appropriation of $154 million annually over the 2016-2018 period for the Automated Commercial Environment program in Customs and Border Protection (CBP);

- Require CBP to improve and expand several trade regulation programs; and

- Require employers to report on the occupational classification of employees on a quarterly basis and require the Department of Labor to make that information available to state and federal agencies.

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

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

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

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

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

ESTIMATED COST TO THE FEDERAL GOVERNMENT

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

BASIS OF ESTIMATE

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

Direct Spending

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

	By Fiscal Year, in Millions of Dollars												
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2015-2020	2015-2025
CHANGES IN DIRECT SPENDING[a]													
Trade Enforcement Trust Fund													
Estimated Budget Authority	0	15	15	15	15	15	15	15	15	15	15	75	150
Estimated Outlays	0	15	15	15	15	15	15	15	15	15	15	75	150
Payment of Interest on Certain Distributions Under CDSOA													
Estimated Budget Authority	0	20	21	22	23	25	27	21	17	13	11	111	200
Estimated Outlays	0	20	21	22	23	25	27	21	17	13	11	111	200
Customs User Fees													
Estimated Budget Authority	0	0	0	0	0	0	0	0	0	0	-204	0	-204
Estimated Outlays	0	0	0	0	0	0	0	0	0	0	-204	0	-204
Total Changes													
Estimated Budget Authority	0	35	36	37	38	40	42	36	32	28	-178	186	146
Estimated Outlays	0	35	36	37	38	40	42	36	32	28	-178	186	146
CHANGES IN REVENUES													
Change in De Minimis Value	-3	-14	-15	-15	-16	-17	-17	-18	-19	-20	-22	-80	-179
Revocation of Passports	0	24	60	62	46	39	34	32	33	34	35	231	398
Drawback Procedures	0	0	-2	-3	-3	-3	-3	-3	-3	-3	-4	-11	-27
Total Changes	-3	10	43	44	27	19	14	11	11	11	9	140	193
NET INCREASE OR DECREASE (-) IN THE DEFICIT FROM CHANGES IN DIRECT SPENDING AND REVENUES													
Impact on Deficit	3	25	-7	-7	11	21	28	25	21	17	-187	46	-48

Continued

TABLE CONTINUED.

	By Fiscal Year, in Millions of Dollars												
	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2015-2020	2015-2025
CHANGES IN SPENDING SUBJECT TO APPROPRIATION													
Automated Commercial Environment													
Authorization Level	0	154	154	154	0	0	0	0	0	0	0	461	461
Estimated Outlays	0	108	154	154	46	0	0	0	0	0	0	461	461
CBP Trade Programs													
Estimated Authorization Level	0	48	95	98	101	104	107	110	113	116	120	445	1,010
Estimated Outlays	0	43	90	97	100	103	106	109	113	116	119	435	998
Department of Labor													
Estimated Authorization Level	0	100	56	58	59	61	62	64	65	67	68	334	660
Estimated Outlays	0	20	72	66	58	59	61	62	64	65	67	274	594
Other Programs													
Estimated Authorization Level	0	13	9	9	14	9	10	10	10	10	10	54	104
Estimated Outlays	0	11	9	9	14	10	10	10	10	10	10	52	102
Total Changes													
Estimated Authorization Level	0	314	314	319	174	174	178	184	188	193	198	1,294	2,235
Estimated Outlays	0	182	325	326	218	172	177	181	186	191	196	1,222	2,154

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

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

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

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

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

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

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

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

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

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

Revenues

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

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

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

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

- Requiring the use of existing category codes to identify which goods may qualify as substitutes for the purposes of drawbacks,

- Standardizing and, in some cases, extending the period during which drawback claims may be filed, and

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

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

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

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

Spending Subject to Appropriation

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

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

CBP Trade Programs. The bill would direct CBP to improve and expand several trade enforcement and facilitation programs, including validation of new importers, protection of copyrights and intellectual property rights, and investigation of allegations of antidumping and countervailing duty evasion. Based on preliminary information from CBP, we estimate that the additional programs would cost $435 million over the 2015-2020 period, mostly to hire new employees.

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

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

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

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

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

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

Office of the United States Trade Representative (USTR). The bill would require new activities and reports, as well as establish new positions at USTR and would direct that office to establish a program to improve the enforcement of intellectual property rights in certain countries. Many of the requirements would codify existing policies and practices of the USTR. However, based on information from USTR and the cost of similar activities and programs, we estimate that implementing the legislation would cost about $10 million over the 2016-2020 period.

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

PAY-AS-YOU-GO CONSIDERATIONS

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

CBO Estimate of Pay-As-You-Go Effects for the Trade Facilitation and Trade Enforcement Act of 2015, as ordered reported by the Senate Committee on Finance on April 22, 2015

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

INTERGOVERNMENTAL AND PRIVATE-SECTOR IMPACT

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

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

Mandate that Applies to Both Public and Private Entities

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

Mandates Affecting Only Private-Sector Entities

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

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

Effect on State Agencies Administering Unemployment Insurance Programs

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

PREVIOUS CBO ESTIMATE

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

ESTIMATE PREPARED BY:

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

ESTIMATE APPROVED BY:

Theresa Gullo
Assistant Director for Budget Analysis