

AMENDMENT NO. \_\_\_\_\_

Calendar No. \_\_\_\_\_

Purpose: To impose sanctions with respect to trafficking of illicit fentanyl and its precursors by transnational criminal organizations, including cartels.

IN THE SENATE OF THE UNITED STATES—118th Cong., 1st Sess.

**S. 2226**

**AMENDMENT N<sup>o</sup> 0519**

By SCOTT (SC)

To: \_\_\_\_\_

S. 2226

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**Page(s)**

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SCOTT of South

Carolina (for himself and Mr. BROWN)

GPO: 2022 50-123 (mac)

Viz:

1 At the end of division A, add the following:

2 **TITLE XVIII—FEND OFF**

3 **FENTANYL ACT**

4 **SEC. 1801. SHORT TITLE.**

5 This title may be cited as the “Fentanyl Eradication  
6 and Narcotics Deterrence Off Fentanyl Act” or the  
7 “FEND Off Fentanyl Act”.

8 **SEC. 1802. SENSE OF CONGRESS.**

9 It is the sense of Congress that—

1           (1) the proliferation of fentanyl is causing an  
2           unprecedented surge in overdose deaths in the  
3           United States, fracturing families and communities,  
4           and necessitating a comprehensive policy response to  
5           combat its lethal flow and to mitigate the drug's  
6           devastating consequences;

7           (2) the trafficking of fentanyl into the United  
8           States is a national security threat that has killed  
9           hundreds of thousands of United States citizens;

10          (3) transnational criminal organizations, includ-  
11          ing cartels primarily based in Mexico, are the main  
12          purveyors of fentanyl into the United States and  
13          must be held accountable;

14          (4) precursor chemicals sourced from the Peo-  
15          ple's Republic of China are—

16                 (A) shipped from the People's Republic of  
17                 China by legitimate and illegitimate means;

18                 (B) transformed through various synthetic  
19                 processes to produce different forms of  
20                 fentanyl; and

21                 (C) crucial to the production of illicit  
22                 fentanyl by transnational criminal organiza-  
23                 tions, contributing to the ongoing opioid crisis;

24          (5) the United States Government must remain  
25          vigilant to address all new forms of fentanyl precur-

1 sors and drugs used in combination with fentanyl,  
2 such as Xylazine, which attribute to overdose deaths  
3 of people in the United States;

4 (6) to increase the cost of fentanyl trafficking,  
5 the United States Government should work collabo-  
6 ratively across agencies and should surge analytic  
7 capability to impose sanctions and other remedies  
8 with respect to transnational criminal organizations  
9 (including cartels), including foreign nationals who  
10 facilitate the trade in illicit fentanyl and its precur-  
11 sors from the People's Republic of China; and

12 (7) the Department of the Treasury should  
13 focus on fentanyl trafficking and its facilitators as  
14 one of the top national security priorities for the De-  
15 partment.

16 **SEC. 1803. DEFINITIONS.**

17 In this title:

18 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**  
19 **TEES.**—The term “appropriate congressional com-  
20 mittees” means—

21 (A) the Committee on Banking, Housing,  
22 and Urban Affairs and the Committee on For-  
23 eign Relations of the Senate; and

1 (B) the Committee on Foreign Affairs and  
2 the Committee on Financial Services of the  
3 House of Representatives.

4 (2) FOREIGN PERSON.—The term “foreign per-  
5 son”—

6 (A) means—

7 (i) any citizen or national of a foreign  
8 country; or

9 (ii) any entity not organized under the  
10 laws of the United States or a jurisdiction  
11 within the United States; and

12 (B) does not include the government of a  
13 foreign country.

14 (3) KNOWINGLY.—The term “knowingly”, with  
15 respect to conduct, a circumstance, or a result,  
16 means that a person has actual knowledge, or should  
17 have known, of the conduct, the circumstance, or the  
18 result.

19 (4) TRAFFICKING.—The term “trafficking”,  
20 with respect to fentanyl, fentanyl precursors, or  
21 other related opioids, has the meaning given the  
22 term “opioid trafficking” in section 7203 of the  
23 Fentanyl Sanctions Act (21 U.S.C. 2302).

1           (5) TRANSNATIONAL CRIMINAL ORGANIZA-  
2           TION.—The term “transnational criminal organiza-  
3           tion” includes—

4                   (A) any organization designated as a sig-  
5                   nificant transnational criminal organization  
6                   under part 590 of title 31, Code of Federal  
7                   Regulations;

8                   (B) any of the organizations known as—

9                           (i) the Sinaloa Cartel;

10                           (ii) the Jalisco New Generation Car-  
11                           tel;

12                           (iii) the Gulf Cartel;

13                           (iv) the Los Zetas Cartel;

14                           (v) the Juarez Cartel;

15                           (vi) the Tijuana Cartel;

16                           (vii) the Beltran-Leyva Cartel; or

17                           (viii) La Familia Michoacana; or

18                   (C) any other organization that the Presi-  
19                   dent determines is a transnational criminal or-  
20                   ganization; or

21                   (D) any successor organization to an orga-  
22                   nization described in subparagraph (B) or as  
23                   otherwise determined by the President.

24           (6) UNITED STATES PERSON.—The term  
25           “United States person” means—

1 (A) a United States citizen or an alien law-  
2 fully admitted for permanent residence to the  
3 United States;

4 (B) an entity organized under the laws of  
5 the United States or of any jurisdiction within  
6 the United States, including a foreign branch of  
7 such an entity; or

8 (C) any person in the United States.

9 **Subtitle A—Sanctions Matters**

10 **PART I—SANCTIONS IN RESPONSE TO NATIONAL**

11 **EMERGENCY RELATING TO FENTANYL TRAF-**

12 **FICKING**

13 **SEC. 1811. FINDING; POLICY.**

14 (a) **FINDING.**—Congress finds that international  
15 trafficking of fentanyl, fentanyl precursors, or other re-  
16 lated opioids constitutes an unusual and extraordinary  
17 threat to the national security, foreign policy, and econ-  
18 omy of the United States, and is a national emergency.

19 (b) **POLICY.**—It shall be the policy of the United  
20 States to apply economic and other financial sanctions to  
21 those who engage in the international trafficking of  
22 fentanyl, fentanyl precursors, or other related opioids to  
23 protect the national security, foreign policy, and economy  
24 of the United States.

1 **SEC. 1812. USE OF NATIONAL EMERGENCY AUTHORITIES;**  
2 **REPORTING.**

3 (a) IN GENERAL.—The President may exercise all  
4 authorities provided under sections 203 and 205 of the  
5 International Emergency Economic Powers Act (50  
6 U.S.C. 1702 and 1704) to carry out this part.

7 (b) REPORT REQUIRED.—

8 (1) IN GENERAL.—Not later than 180 days  
9 after the date of the enactment of this Act, and an-  
10 nually thereafter, the President shall submit to the  
11 appropriate congressional committees a report on ac-  
12 tions taken by the executive branch pursuant to this  
13 part and any national emergency declared with re-  
14 spect to the trafficking of fentanyl and trade in  
15 other illicit drugs, including—

16 (A) the issuance of any new or revised reg-  
17 ulations, policies, or guidance;

18 (B) the imposition of sanctions;

19 (C) the collection of relevant information  
20 from outside parties;

21 (D) the issuance or closure of general li-  
22 censes, specific licenses, and statements of li-  
23 censing policy by the Office of Foreign Assets  
24 Control;

25 (E) a description of any pending enforce-  
26 ment cases; or

1 (F) the implementation of mitigation pro-  
2 cedures.

3 (2) FORM OF REPORT.—Each report required  
4 by paragraph (1) shall be submitted in unclassified  
5 form, but may include the matters required by sub-  
6 paragraphs (C), (D), (E), and (F) of that paragraph  
7 in a classified annex.

8 **SEC. 1813. CODIFICATION OF EXECUTIVE ORDER IMPOSING**  
9 **SANCTIONS WITH RESPECT TO FOREIGN PER-**  
10 **SONS INVOLVED IN GLOBAL ILLICIT DRUG**  
11 **TRADE.**

12 United States sanctions provided for in Executive  
13 Order 14059 (50 U.S.C. 1701 note; relating to imposing  
14 sanctions on foreign persons involved in the global illicit  
15 drug trade), and any amendments to or directives issued  
16 pursuant to such Executive order before the date of the  
17 enactment of this Act, shall remain in effect.

18 **SEC. 1814. IMPOSITION OF SANCTIONS WITH RESPECT TO**  
19 **FENTANYL                   TRAFFICKING                   BY**  
20 **TRANSNATIONAL CRIMINAL ORGANIZATIONS.**

21 (a) IN GENERAL.—The President shall impose the  
22 sanctions described in subsection (b) with respect to any  
23 foreign person the President determines—

24 (1) is knowingly involved in the significant traf-  
25 ficking of fentanyl, fentanyl precursors, or other re-



1 lated opioids, including such trafficking by a  
2 transnational criminal organization; or

3 (2) otherwise is knowingly involved in signifi-  
4 cant activities of a transnational criminal organiza-  
5 tion relating to the trafficking of fentanyl, fentanyl  
6 precursors, or other related opioids.

7 (b) **SANCTIONS DESCRIBED.**—The President may,  
8 pursuant to the International Emergency Economic Pow-  
9 ers Act (50 U.S.C. 1701 et seq.), block and prohibit all  
10 transactions in property and interests in property of a for-  
11 eign person described in subsection (a) if such property  
12 and interests in property are in the United States, come  
13 within the United States, or are or come within the posses-  
14 sion or control of a United States person.

15 (c) **REPORT REQUIRED.**—Not later than 180 days  
16 after the date of the enactment of this Act, and annually  
17 thereafter, the President shall submit to the appropriate  
18 congressional committees a report on actions taken by the  
19 executive branch with respect to the foreign persons iden-  
20 tified under subsection (a).

21 **SEC. 1815. PENALTIES; WAIVERS; EXCEPTIONS.**

22 (a) **PENALTIES.**—A person that violates, attempts to  
23 violate, conspires to violate, or causes a violation of this  
24 part or any regulation, license, or order issued to carry  
25 out this part shall be subject to the penalties set forth

1 in subsections (b) and (c) of section 206 of the Inter-  
2 national Emergency Economic Powers Act (50 U.S.C.  
3 1705) to the same extent as a person that commits an  
4 unlawful act described in subsection (a) of that section.

5 (b) NATIONAL SECURITY WAIVER.—The President  
6 may waive the application of sanctions under this part  
7 with respect to a foreign person if the President deter-  
8 mines that the waiver is in the national security interest  
9 of the United States.

10 (c) EXCEPTIONS.—

11 (1) EXCEPTION FOR INTELLIGENCE ACTIVI-  
12 TIES.—This part shall not apply with respect to ac-  
13 tivities subject to the reporting requirements under  
14 title V of the National Security Act of 1947 (50  
15 U.S.C. 3091 et seq.) or any authorized intelligence  
16 activities of the United States.

17 (2) EXCEPTION FOR COMPLIANCE WITH INTER-  
18 NATIONAL OBLIGATIONS AND LAW ENFORCEMENT  
19 ACTIVITIES.—Sanctions under this part shall not  
20 apply with respect to an alien if admitting or parol-  
21 ing the alien into the United States is necessary—

22 (A) to permit the United States to comply  
23 with the Agreement regarding the Head-  
24 quarters of the United Nations, signed at Lake  
25 Success on June 26, 1947, and entered into

1 force November 21, 1947, between the United  
2 Nations and the United States, or other appli-  
3 cable international obligations of the United  
4 States; or

5 (B) to carry out or assist law enforcement  
6 activity of the United States.

7 (3) HUMANITARIAN EXEMPTION.—The Presi-  
8 dent may not impose sanctions under this part with  
9 respect to any person for conducting or facilitating  
10 a transaction for the sale of agricultural commod-  
11 ities, food, medicine, or medical devices or for the  
12 provision of humanitarian assistance.

13 **SEC. 1816. TREATMENT OF FORFEITED PROPERTY OF**  
14 **TRANSNATIONAL CRIMINAL ORGANIZATIONS.**

15 (a) **TRANSFER OF FORFEITED PROPERTY TO FOR-**  
16 **FEITURE FUNDS.—**

17 (1) **IN GENERAL.—**Any covered forfeited prop-  
18 erty shall be deposited into the Department of the  
19 Treasury Forfeiture Fund established under section  
20 9705 of title 31, United States Code, or the Depart-  
21 ment of Justice Assets Forfeiture Fund established  
22 under section 524(c) of title 28, United States Code.

23 (2) **REPORT REQUIRED.—**Not later than 180  
24 days after the date of the enactment of this Act, and  
25 every 180 days thereafter, the President shall sub-

1       mit to the appropriate congressional committees a  
2       report on any deposits made under paragraph (1)  
3       during the 180-day period preceding submission of  
4       the report.

5       (3) COVERED FORFEITED PROPERTY DE-  
6       FINED.—In this subsection, the term “covered for-  
7       feited property” means property—

8               (A) forfeited to the United States under  
9               chapter 46 or section 1963 of title 18, United  
10              States Code; and

11             (B) that belonged to or was possessed by  
12             an individual affiliated with or connected to a  
13             transnational criminal organization subject to  
14             sanctions under—

15               (i) this part;

16               (ii) the Fentanyl Sanctions Act (21  
17               U.S.C. 2301 et seq.); or

18               (iii) Executive Order 14059 (50  
19               U.S.C. 1701 note; relating to imposing  
20               sanctions on foreign persons involved in  
21               the global illicit drug trade).

22       (b) BLOCKED ASSETS UNDER TERRORISM RISK IN-  
23       SURANCE ACT OF 2002.—Nothing in this part affects the  
24       treatment of blocked assets of a terrorist party described

1 in subsection (a) of section 201 of the Terrorism Risk In-  
2 surance Act of 2002 (28 U.S.C. 1610 note).

3 **PART II—OTHER MATTERS**

4 **SEC. 1821. TEN-YEAR STATUTE OF LIMITATIONS FOR VIOLA-**  
5 **TIONS OF SANCTIONS.**

6 (a) INTERNATIONAL EMERGENCY ECONOMIC POW-  
7 ERS ACT.—Section 206 of the International Emergency  
8 Economic Powers Act (50 U.S.C. 1705) is amended by  
9 adding at the end the following:

10 “(d) STATUTE OF LIMITATIONS.—

11 “(1) TIME FOR COMMENCING PROCEEDINGS.—

12 “(A) IN GENERAL.—An action, suit, or  
13 proceeding for the enforcement of any civil fine,  
14 penalty, or forfeiture, pecuniary or otherwise,  
15 under this section shall not be entertained un-  
16 less commenced within ten years after the latest  
17 date of the violation upon which the civil fine,  
18 penalty, or forfeiture is based.

19 “(B) COMMENCEMENT.—For purposes of  
20 this paragraph, the commencement of an ac-  
21 tion, suit, or proceeding includes the issuance of  
22 a pre-penalty notice or finding of violation.

23 “(2) TIME FOR INDICTMENT.—No person shall  
24 be prosecuted, tried, or punished for any offense  
25 under subsection (c) unless the indictment is found

1 or the information is instituted within ten years  
2 after the latest date of the violation upon which the  
3 indictment or information is based.”.

4 (b) TRADING WITH THE ENEMY ACT.—Section 16  
5 of the Trading with the Enemy Act (50 U.S.C. 4315) is  
6 amended by adding at the end the following:

7 “(d) STATUTE OF LIMITATIONS.—

8 “(1) TIME FOR COMMENCING PROCEEDINGS.—

9 “(A) IN GENERAL.—An action, suit, or  
10 proceeding for the enforcement of any civil fine,  
11 penalty, or forfeiture, pecuniary or otherwise,  
12 under this section shall not be entertained un-  
13 less commenced within ten years after the latest  
14 date of the violation upon which the civil fine,  
15 penalty, or forfeiture is based.

16 “(B) COMMENCEMENT.—For purposes of  
17 this paragraph, the commencement of an ac-  
18 tion, suit, or proceeding includes the issuance of  
19 a pre-penalty notice or finding of violation.

20 “(2) TIME FOR INDICTMENT.—No person shall  
21 be prosecuted, tried, or punished for any offense  
22 under subsection (a) unless the indictment is found  
23 or the information is instituted within ten years  
24 after the latest date of the violation upon which the  
25 indictment or information is based.”.

1 **SEC. 1822. CLASSIFIED REPORT AND BRIEFING ON STAFF-**  
2 **ING OF OFFICE OF FOREIGN ASSETS CON-**  
3 **TROL.**

4 Not later than 180 days after the date of the enact-  
5 ment of this Act, the Director of the Office of Foreign  
6 Assets Control shall provide to the appropriate congress-  
7 sional committees a classified report and briefing on the  
8 staffing of the Office of Foreign Assets Control,  
9 disaggregated by staffing dedicated to each sanctions pro-  
10 gram and each country or issue.

11 **SEC. 1823. REPORT ON DRUG TRANSPORTATION ROUTES**  
12 **AND USE OF VESSELS WITH MISLABELED**  
13 **CARGO.**

14 Not later than 180 days after the date of the enact-  
15 ment of this Act, the Secretary of the Treasury, in con-  
16 junction with the heads of other relevant Federal agencies,  
17 shall provide to the appropriate congressional committees  
18 a classified report and briefing on efforts to target drug  
19 transportation routes and modalities, including an assess-  
20 ment of the prevalence of false cargo labeling and ship-  
21 ment of precursor chemicals without accurate tracking of  
22 the customers purchasing the chemicals.

1 **SEC. 1824. REPORT ON ACTIONS OF PEOPLE'S REPUBLIC OF**  
2 **CHINA WITH RESPECT TO PERSONS IN-**  
3 **VOLVED IN FENTANYL SUPPLY CHAIN.**

4 Not later than 180 days after the date of the enact-  
5 ment of this Act, the Secretary of the Treasury, in con-  
6 junction with the heads of other relevant Federal agencies,  
7 shall provide to the appropriate congressional committees  
8 a classified report and briefing on actions taken by the  
9 Government of the People's Republic of China with respect  
10 to persons involved in the shipment of fentanyl, fentanyl  
11 analogues, fentanyl precursors, precursors for fentanyl  
12 analogues, and equipment for the manufacturing of  
13 fentanyl and fentanyl-laced counterfeit pills.

14 **Subtitle B—Anti-Money**  
15 **Laundering Matters**

16 **SEC. 1831. DESIGNATION OF ILLICIT FENTANYL TRANS-**  
17 **ACTIONS OF SANCTIONED PERSONS AS OF**  
18 **PRIMARY MONEY LAUNDERING CONCERN.**

19 Subtitle A of the Fentanyl Sanctions Act (21 U.S.C.  
20 2311 et seq.) is amended by inserting after section 7213  
21 the following:

22 **“SEC. 7213A. DESIGNATION OF TRANSACTIONS OF SANC-**  
23 **TIONED PERSONS AS OF PRIMARY MONEY**  
24 **LAUNDERING CONCERN.**

25 **“(a) IN GENERAL.—**If the Secretary of the Treasury  
26 determines that reasonable grounds exist for concluding



1 that one or more financial institutions operating outside  
2 of the United States, 1 or more classes of transactions  
3 within, or involving, a jurisdiction outside of the United  
4 States, or 1 or more types of accounts within, or involving,  
5 a jurisdiction outside of the United States, is of primary  
6 money laundering concern in connection with illicit opioid  
7 trafficking, the Secretary of the Treasury may, by order,  
8 regulation, or otherwise as permitted by law—

9           “(1) require domestic financial institutions and  
10 domestic financial agencies to take 1 or more of the  
11 special measures provided for in section 9714(a)(1)  
12 of the National Defense Authorization Act for Fiscal  
13 Year 2021 (Public Law 116–283; 31 U.S.C. 5318A  
14 note); or

15           “(2) prohibit, or impose conditions upon, cer-  
16 tain transmittals of funds (to be defined by the Sec-  
17 retary) by any domestic financial institution or do-  
18 mestic financial agency, if such transmittal of funds  
19 involves any such institution, class of transaction, or  
20 type of accounts.

21           “(b) CLASSIFIED INFORMATION.—In any judicial re-  
22 view of a finding of the existence of a primary money laun-  
23 dering concern, or of the requirement for 1 or more special  
24 measures with respect to a primary money laundering con-  
25 cern made under this section, if the designation or imposi-

1 tion, or both, were based on classified information (as de-  
2 fined in section 1(a) of the Classified Information Proce-  
3 dures Act (18 U.S.C. App.)), such information may be  
4 submitted by the Secretary to the reviewing court ex parte  
5 and in camera. This subsection does not confer or imply  
6 any right to judicial review of any finding made or any  
7 requirement imposed under this section.

8       “(c) AVAILABILITY OF INFORMATION.—The exemp-  
9 tions from, and prohibitions on, search and disclosure re-  
10 ferred to in section 9714(c) of the National Defense Au-  
11 thorization Act for Fiscal Year 2021 (Public Law 116-  
12 283; 31 U.S.C. 5318A note) shall apply to any report or  
13 record of report filed pursuant to a requirement imposed  
14 under subsection (a). For purposes of section 552 of title  
15 5, United States Code, this subsection shall be considered  
16 a statute described in subsection (b)(3)(B) of that section.

17       “(d) PENALTIES.—The penalties referred to in sec-  
18 tion 9714(d) of the National Defense Authorization Act  
19 for Fiscal Year 2021 (Public Law 116-283; 31 U.S.C.  
20 5318A note) shall apply to violations of any order, regula-  
21 tion, special measure, or other requirement imposed under  
22 subsection (a), in the same manner and to the same extent  
23 as described in such section 9714(d).

24       “(e) INJUNCTIONS.—The Secretary of the Treasury  
25 may bring a civil action to enjoin a violation of any order,

1 regulation, special measure, or other requirement imposed  
2 under subsection (a) in the same manner and to the same  
3 extent as described in section 9714(e) of the National De-  
4 fense Authorization Act for Fiscal Year 2021 (Public Law  
5 116–283; 31 U.S.C. 5318A note).”.

6 **SEC. 1832. TREATMENT OF TRANSNATIONAL CRIMINAL OR-**  
7 **GANIZATIONS IN SUSPICIOUS TRANSACTIONS**  
8 **REPORTS OF THE FINANCIAL CRIMES EN-**  
9 **FORCEMENT NETWORK.**

10 (a) **FILING INSTRUCTIONS.**—Not later than 180 days  
11 after the date of the enactment of this Act, the Director  
12 of the Financial Crimes Enforcement Network shall issue  
13 guidance or instructions to United States financial institu-  
14 tions for filing reports on suspicious transactions required  
15 by section 1010.320 of title 31, Code of Federal Regula-  
16 tions, related to suspected fentanyl trafficking by  
17 transnational criminal organizations.

18 (b) **PRIORITIZATION OF REPORTS RELATING TO**  
19 **FENTANYL TRAFFICKING OR TRANSNATIONAL CRIMINAL**  
20 **ORGANIZATIONS.**—The Director shall prioritize research  
21 into reports described in subsection (a) that indicate a  
22 connection to trafficking of fentanyl or related synthetic  
23 opioids or financing of suspected transnational criminal  
24 organizations.

1 **SEC. 1833. REPORT ON TRADE-BASED MONEY LAUNDERING**  
2 **IN TRADE WITH MEXICO, THE PEOPLE'S RE-**  
3 **PUBLIC OF CHINA, AND BURMA.**

4 (a) IN GENERAL.—In the first update to the national  
5 strategy for combating the financing of terrorism and re-  
6 lated forms of illicit finance submitted to Congress after  
7 the date of the enactment of this Act, the Secretary of  
8 the Treasury shall include a report on trade-based money  
9 laundering originating in Mexico or the People's Republic  
10 of China and involving Burma.

11 (b) DEFINITION.—In this section, the term “national  
12 strategy for combating the financing of terrorism and re-  
13 lated forms of illicit finance” means the national strategy  
14 for combating the financing of terrorism and related forms  
15 of illicit finance required by section 261 of the Countering  
16 America's Adversaries Through Sanctions Act (Public  
17 Law 115–44; 131 Stat. 934), as amended by section 6506  
18 of the National Defense Authorization Act for Fiscal Year  
19 2022 (Public Law 117–81; 135 Stat. 2428).

20 **Subtitle C—Exception Relating to**  
21 **Importation of Goods**

22 **SEC. 1841. EXCEPTION RELATING TO IMPORTATION OF**  
23 **GOODS.**

24 (a) IN GENERAL.—The authority or a requirement  
25 to block and prohibit all transactions in all property and  
26 interests in property under this title shall not include the

1 authority or a requirement to impose sanctions on the im-  
2 portation of goods.

3 (b) GOOD DEFINED.—In this section, the term  
4 “good” means any article, natural or manmade substance,  
5 material, supply or manufactured product, including in-  
6 spection and test equipment, and excluding technical data.