

AMENDMENT TO H.R. 1890 OFFERED BY REP. LEVIN

This amendment would improve U.S. trade remedy laws, improve the enforcement of trade laws, and enhance infrastructure programs.

AMENDMENT TO H.R. 1890

OFFERED BY MR. LEVIN OF MICHIGAN

Convert existing provisions as title I, redesignate section 1 through 11 as sections 101-111, respectively, and make necessary conforming changes.

Add at the end the following new titles:

1 **TITLE II—IMPROVEMENTS TO**
2 **UNITED STATES TRADE REM-**
3 **EDIES LAWS**

4 **Subtitle A—Currency Reform for**
5 **Fair Trade**

6 **SEC. 201. SHORT TITLE.**

7 This subtitle may be cited as the “Currency Reform
8 for Fair Trade Act”.

9 **SEC. 202. CLARIFICATION REGARDING DEFINITION OF**
10 **COUNTERAVAILABLE SUBSIDY.**

11 (a) **BENEFIT CONFERRED.**—Section 771(5)(E) of
12 the Tariff Act of 1930 (19 U.S.C. 1677(5)(E)) is amend-
13 ed—

14 (1) in clause (iii), by striking “and” at the end;

15 (2) in clause (iv), by striking the period at the

16 end and inserting “, and”; and

1 (3) by inserting after clause (iv) the following
2 new clause:

3 “(v) in the case in which the currency
4 of a country in which the subject merchan-
5 dise is produced is exchanged for foreign
6 currency obtained from export trans-
7 actions, and the currency of such country
8 is a fundamentally undervalued currency,
9 as defined in paragraph (37), the dif-
10 ference between the amount of the cur-
11 rency of such country provided and the
12 amount of the currency of such country
13 that would have been provided if the real
14 effective exchange rate of the currency of
15 such country were not undervalued, as de-
16 termined pursuant to paragraph (38).”.

17 (b) EXPORT SUBSIDY.—Section 771(5A)(B) of the
18 Tariff Act of 1930 (19 U.S.C. 1677(5A)(B)) is amended
19 by adding at the end the following new sentence: “In the
20 case of a subsidy relating to a fundamentally undervalued
21 currency, the fact that the subsidy may also be provided
22 in circumstances not involving export shall not, for that
23 reason alone, mean that the subsidy cannot be considered
24 contingent upon export performance.”.

1 (c) DEFINITION OF FUNDAMENTALLY UNDER-
2 VALUED CURRENCY.—Section 771 of the Tariff Act of
3 1930 (19 U.S.C. 1677) is amended by adding at the end
4 the following new paragraph:

5 “(37) FUNDAMENTALLY UNDERVALUED CUR-
6 RENCY.—The administering authority shall deter-
7 mine that the currency of a country in which the
8 subject merchandise is produced is a ‘fundamentally
9 undervalued currency’ if—

10 “(A) the government of the country (in-
11 cluding any public entity within the territory of
12 the country) engages in protracted, large-scale
13 intervention in one or more foreign exchange
14 markets during part or all of the 18-month pe-
15 riod that represents the most recent 18 months
16 for which the information required under para-
17 graph (38) is reasonably available, but that
18 does not include any period of time later than
19 the final month in the period of investigation or
20 the period of review, as applicable;

21 “(B) the real effective exchange rate of the
22 currency is undervalued by at least 5 percent,
23 on average and as calculated under paragraph
24 (38), relative to the equilibrium real effective

1 exchange rate for the country's currency during
2 the 18-month period;

3 “(C) during the 18-month period, the
4 country has experienced significant and per-
5 sistent global current account surpluses; and

6 “(D) during the 18-month period, the for-
7 eign asset reserves held by the government of
8 the country exceed—

9 “(i) the amount necessary to repay all
10 debt obligations of the government falling
11 due within the coming 12 months;

12 “(ii) 20 percent of the country's
13 money supply, using standard measures of
14 M2; and

15 “(iii) the value of the country's im-
16 ports during the previous 4 months.”.

17 (d) DEFINITION OF REAL EFFECTIVE EXCHANGE
18 RATE UNDERVALUATION.—Section 771 of the Tariff Act
19 of 1930 (19 U.S.C. 1677), as amended by subsection (c)
20 of this section, is further amended by adding at the end
21 the following new paragraph:

22 “(38) REAL EFFECTIVE EXCHANGE RATE
23 UNDERVALUATION.—The calculation of real effective
24 exchange rate undervaluation, for purposes of para-
25 graph (5)(E)(v) and paragraph (37), shall—

1 “(A)(i) rely upon, and where appropriate
2 be the simple average of, the results yielded
3 from application of the approaches described in
4 the guidelines of the International Monetary
5 Fund’s Consultative Group on Exchange Rate
6 Issues; or

7 “(ii) if the guidelines of the International
8 Monetary Fund’s Consultative Group on Ex-
9 change Rate Issues are not available, be based
10 on generally accepted economic and econometric
11 techniques and methodologies to measure the
12 level of undervaluation;

13 “(B) rely upon data that are publicly avail-
14 able, reliable, and compiled and maintained by
15 the International Monetary Fund or, if the
16 International Monetary Fund cannot provide
17 the data, by other international organizations or
18 by national governments; and

19 “(C) use inflation-adjusted, trade-weighted
20 exchange rates.”.

21 **SEC. 203. REPORT ON IMPLEMENTATION OF SUBTITLE.**

22 (a) **IN GENERAL.**—Not later than 9 months after the
23 date of the enactment of this Act, the Comptroller General
24 of the United States shall submit to Congress a report

1 on the implementation of the amendments made by this
2 subtitle.

3 (b) **MATTERS TO BE INCLUDED.**—The report re-
4 quired by subsection (a) shall include a description of the
5 extent to which United States industries that have been
6 materially injured by reason of imports of subject mer-
7 chandise produced in foreign countries with fundamentally
8 undervalued currencies have received relief under title VII
9 of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.), as
10 amended by this subtitle.

11 **SEC. 204. APPLICATION TO GOODS FROM CANADA AND**
12 **MEXICO.**

13 Pursuant to article 1902 of the North American Free
14 Trade Agreement and section 408 of the North American
15 Free Trade Agreement Implementation Act of 1993 (19
16 U.S.C. 3438), the amendments made by section 202 of
17 this Act shall apply to goods from Canada and Mexico.

18 **Subtitle B—Leveling the Playing**
19 **Field**

20 **SEC. 211. SHORT TITLE.**

21 This subtitle may be cited as the “Leveling the Play-
22 ing Field Act”.

1 **SEC. 212. CONSEQUENCES OF FAILURE TO COOPERATE**
2 **WITH A REQUEST FOR INFORMATION IN A**
3 **PROCEEDING.**

4 Section 776 of the Tariff Act of 1930 (19 U.S.C.
5 1677e) is amended—

6 (1) in subsection (b)—

7 (A) by redesignating paragraphs (1)
8 through (4) as subparagraphs (A) through (D),
9 respectively, and by moving such subpara-
10 graphs, as so redesignated, 2 ems to the right;

11 (B) by striking “ADVERSE INFERENCES.—
12 If” and inserting the following: “ADVERSE IN-
13 FERENCES.—

14 “(1) IN GENERAL.—If”;

15 (C) by striking “under this title, may use”
16 and inserting the following: “under this title—

17 “(A) may use”; and

18 (D) by striking “facts otherwise available.
19 Such adverse inference may include” and in-
20 serting the following: “facts otherwise available;
21 and

22 “(B) is not required to determine, or make
23 any adjustments to, a countervailable subsidy
24 rate or weighted average dumping margin based
25 on any assumptions about information the in-
26 terested party would have provided if the inter-

1 ested party had complied with the request for
2 information.

3 “(2) POTENTIAL SOURCES OF INFORMATION
4 FOR ADVERSE INFERENCES.—An adverse inference
5 under paragraph (1)(A) may include”; and

6 (2) by adding at the end the following:

7 “(d) JUDICIAL REVIEW.—Notwithstanding any other
8 provision of law, any determination made by the admin-
9 istering authority or the Commission in selecting the facts
10 otherwise available or using an inference that is adverse
11 to the interests of a party under subsection (b)(1)(A) shall
12 not be subject to judicial review.”.

13 **SEC. 213. EVALUATION OF IMPACT ON DOMESTIC INDUS-**
14 **TRY IN DETERMINATION OF MATERIAL IN-**
15 **JURY.**

16 Section 771(7)(C) of the Tariff Act of 1930 (19
17 U.S.C. 1677(7)(C)) is amended by striking clause (iii) and
18 inserting the following:

19 “(iii) IMPACT ON AFFECTED DOMES-
20 TIC INDUSTRY.—

21 “(I) IN GENERAL.—In examining
22 the impact required to be considered
23 under subparagraph (B)(i)(III), the
24 Commission shall evaluate all relevant
25 economic factors that have a bearing

1 on the state of the industry in the
2 United States, including—

3 “(aa) actual and potential
4 decline in output, sales, market
5 share, gross profits, operating
6 profits, net profits, ability to
7 service debt, productivity, return
8 on investments, return on assets,
9 and utilization of capacity,

10 “(bb) factors affecting do-
11 mestic prices,

12 “(cc) actual and potential
13 negative effects on cash flow, in-
14 ventories, employment, wages,
15 growth, ability to raise capital,
16 and investment,

17 “(dd) actual and potential
18 negative effects on the existing
19 development and production ef-
20 forts of the domestic industry, in-
21 cluding efforts to develop a deriv-
22 ative or more advanced version of
23 the domestic like product, and

1 “(ee) in a proceeding under
2 subtitle B, the magnitude of the
3 margin of dumping.

4 “(II) EVALUATION OF ECONOMIC
5 FACTORS IN CONTEXT.—

6 “(aa) IN GENERAL.—The
7 Commission shall evaluate all rel-
8 evant economic factors described
9 in subclause (I) within the con-
10 text of the business cycle and
11 conditions of competition that are
12 distinct to the affected industry.

13 “(bb) INDUSTRY PERFORM-
14 ANCE.—The fact that the per-
15 formance of the affected industry
16 has improved during the period
17 of investigation shall not preclude
18 a finding of material injury or
19 threat of material injury.

20 “(III) EFFECT OF RECESSION.—
21 In the case of an investigation initi-
22 ated by petition, if the National Bu-
23 reau of Economic Research or another
24 government agency responsible for
25 business cycle evaluation declares that

1 a recession began at any time during
2 the 3-year period preceding the date
3 on which the petition was filed, the
4 Commission may, if timely requested
5 by an interested party, extend its nor-
6 mal period of investigation as the
7 Commission considers appropriate.”.

8 **SEC. 214. DETERMINATION OF DUTIES FOR NEW EXPORT-**
9 **ERS AND PRODUCERS BASED ON BONA FIDE**
10 **UNITED STATES SALES.**

11 Section 751(a)(2)(B) of the Tariff Act of 1930 (19
12 U.S.C. 1675(a)(2)(B)) is amended—

13 (1) by striking clause (iii);

14 (2) by redesignating clause (iv) as clause (iii);

15 and

16 (3) by adding at the end the following:

17 “(iv) BONA FIDE UNITED STATES
18 SALES.—

19 “(I) ELIGIBILITY FOR INDI-
20 VIDUAL MARGIN OR RATE.—An ex-
21 porter or producer may be eligible for
22 an individual weighted average dump-
23 ing margin or individual counter-
24 vailing duty rate established in a re-

1 view conducted under clause (i) only if
2 that exporter or producer—

3 “(aa) is not affiliated with
4 an exporter or producer who ex-
5 ported subject merchandise dur-
6 ing the period covered by the re-
7 view or exported subject mer-
8 chandise to the United States
9 during any period, and

10 “(bb) demonstrates that
11 sales of subject merchandise by
12 that exporter or producer in the
13 United States, or for exportation
14 to the United States, during the
15 period covered by the review that
16 are relied upon as the basis for
17 requesting the review and the
18 calculation of an individual
19 dumping margin or individual
20 countervailing duty rate, are—

21 “(AA) bona fide, and

22 “(BB) sold to a person
23 that is not affiliated with
24 that exporter or producer.

1 “(II) ELEMENTS OF BONA FIDE
2 DETERMINATION.—In determining
3 whether sales in the United States by
4 an exporter or producer are bona fide
5 for purposes of subclause (I)(aa), the
6 administering authority shall consider,
7 depending on the circumstances sur-
8 rounding such sales—
9 “(aa) the prices of such
10 sales,
11 “(bb) whether such sales
12 were made in commercial quan-
13 tities,
14 “(cc) the timing of such
15 sales,
16 “(dd) the expenses arising
17 from such sales,
18 “(ee) whether the subject
19 merchandise involved in such
20 sales was resold in the United
21 States at a profit,
22 “(ff) whether such sales
23 were made on an arms-length
24 basis, and

1 “(gg) any other factor the
2 administering authority considers
3 to be relevant with respect to
4 whether such sales are, or are
5 not, likely to be typical of sales
6 the exporter or producer will
7 make after completion of the re-
8 view.”.

9 **SEC. 215. REQUIREMENT OF PROVISION BY IMPORTER OF**
10 **CERTIFICATION BY IMPORTER OR OTHER**
11 **PARTY.**

12 (a) IN GENERAL.—Subtitle D of title VII of the Tar-
13 iff Act of 1930 (19 U.S.C. 1677 et seq.) is amended by
14 adding at the end the following:

15 **“SEC. 784. REQUIREMENT FOR CERTIFICATION BY IM-**
16 **PORTER OR OTHER PARTY.**

17 “(a) REQUIREMENT.—

18 “(1) IN GENERAL.—For imports of merchan-
19 dise into the customs territory of the United States,
20 the administering authority may require an im-
21 porter—

22 “(A) to provide a certification described in
23 paragraph (2) physically or by electronic means
24 at the time of entry or with the entry summary,
25 or

1 “(B) to otherwise demonstrate compliance
2 with the requirements for a certification de-
3 scribed in paragraph (2).

4 “(2) CERTIFICATION DESCRIBED.—A certifi-
5 cation described in this paragraph is a certification
6 by the importer of the merchandise or another party,
7 as required by the administering authority, such as
8 a certification that the merchandise is not subject to
9 an antidumping or countervailing duty under this
10 title.

11 “(3) AVAILABLE UPON REQUEST.—If a certifi-
12 cation required under paragraph (1) is required to
13 be maintained by the importer or another party, as
14 determined by the administering authority in con-
15 sultation with the Commissioner responsible for U.S.
16 Customs and Border Protection (in this section re-
17 ferred to as the ‘Commissioner’), the Commissioner
18 or administering authority may require that the im-
19 porter or other party make the certification available
20 to the Commissioner or administering authority
21 upon request.

22 “(b) PENALTIES.—

23 “(1) AUTHORITY TO COLLECT CASH DEPOSITS
24 AND TO ASSESS DUTIES.—If the administering au-
25 thority requires an importer or other party to pro-

1 vide a certification described in paragraph (2) of
2 subsection (a) for merchandise imported into the
3 customs territory of the United States pursuant to
4 paragraph (1) of that subsection, and the importer
5 or other party does not provide that certification or
6 that certification contains any false, misleading, or
7 fraudulent statement or representation or any mate-
8 rial omission, the administering authority shall in-
9 struct the Commissioner—

10 “(A) to suspend liquidation of the entry;

11 “(B) to require that the importer or other
12 party post a cash deposit at an amount equal
13 to the antidumping duty or countervailing duty
14 applicable to the merchandise; and

15 “(C) to assess the rate of duty determined
16 under paragraph (2) upon liquidation or reliqui-
17 dation of the entry.

18 “(2) OTHER PENALTIES.—If the administering
19 authority requires an importer or other party to pro-
20 vide a certification described in paragraph (2) of
21 subsection (a) for merchandise imported into the
22 customs territory of the United States pursuant to
23 paragraph (1) of that subsection, and the importer
24 or other party does not provide that certification or
25 that certification contains any false, misleading, or

1 fraudulent statement or representation or any mate-
2 rial omission, the importer of the merchandise may
3 be subject to a penalty pursuant to section 592 of
4 this Act, section 1001 of title 18, United States
5 Code, or any other applicable provision of law.”.

6 (b) CLERICAL AMENDMENT.—The table of contents
7 for title VII of the Tariff Act of 1930 is amended by in-
8 serting after the item relating to section 783 the following:

“Sec. 784. Requirement for certification by importer or other party.”.

9 **SEC. 216. REDUCTION IN BURDEN ON DEPARTMENT OF**
10 **COMMERCE BY REDUCING THE NUMBER OF**
11 **VOLUNTARY RESPONDENTS.**

12 Section 782(a) of the Tariff Act of 1930 (19 U.S.C.
13 1677m(a)) is amended—

14 (1) in paragraph (1), by redesignating subpara-
15 graphs (A) and (B) as clauses (i) and (ii), respec-
16 tively, and by moving such clauses, as so redesign-
17 ated, 2 ems to the right;

18 (2) by redesignating paragraphs (1) and (2) as
19 subparagraphs (A) and (B), respectively, and by
20 moving such subparagraphs, as so redesignated, 2
21 ems to the right;

22 (3) by striking “INVESTIGATIONS AND RE-
23 VIEWS.—In” and inserting the following: “INVES-
24 TIGATIONS AND REVIEWS.—

25 “(1) IN GENERAL.—In”;

1 (4) in paragraph (1), as designated by para-
2 graph (3), by amending subparagraph (B), as redes-
3 igned by paragraph (2), to read as follows:

4 “(B) the number of exporters or producers
5 subject to the investigation or review is not so
6 large that any additional individual examination
7 of such exporters or producers would be unduly
8 burdensome to the administering authority and
9 inhibit the timely completion of the investiga-
10 tion or review.”; and

11 (5) by adding at the end the following:

12 “(2) DETERMINATION OF UNDULY BURDEN-
13 SOME.—In determining if an individual examination
14 under paragraph (1)(B) would be unduly burden-
15 some, the administering authority may consider the
16 following:

17 “(A) The complexity of the issues or infor-
18 mation presented in the proceeding, including
19 questionnaires and any responses thereto.

20 “(B) Any prior experience of the admin-
21 istering authority in the same or similar pro-
22 ceeding.

23 “(C) The total number of investigations
24 under subtitle A or B, reviews under section
25 751, and other proceedings being conducted by

1 the administering authority as of the date of
2 the determination.

3 “(D) Such other factors relating to the
4 timely completion of each such investigation
5 and review as the administering authority con-
6 siders appropriate.”.

7 **SEC. 217. CLARIFICATION OF DISCRETION OF SECRETARY**
8 **OF COMMERCE TO DISREGARD CERTAIN**
9 **PRICE OR COST VALUES IN CALCULATION OF**
10 **NORMAL VALUE.**

11 Section 773(c) of the Tariff Act of 1930 (19 U.S.C.
12 1677b(c)) is amended by adding at the end the following:

13 “(5) DISCRETION TO DISREGARD CERTAIN
14 PRICE OR COST VALUES.—

15 “(A) IN GENERAL.—In valuing the factors
16 of production under paragraph (1) for the sub-
17 ject merchandise, the administering authority
18 may disregard price or cost values if the admin-
19 istering authority has reason to believe or sus-
20 pect that an input for the subject merchandise
21 is subsidized or dumped.

22 “(B) PRIOR INVESTIGATIONS.—

23 “(i) IN GENERAL.—The administering
24 authority has reason to believe or suspect
25 under subparagraph (A) that an input for

1 the subject merchandise is subsidized or
2 dumped if an investigation has found
3 broadly available export subsidies or spe-
4 cific instances of dumping or subsidies
5 with respect to that input from a country
6 or customs territory.

7 “(ii) FURTHER INVESTIGATION.—If
8 the administering authority makes a find-
9 ing described in clause (i), the admin-
10 istering authority is not required to con-
11 duct further investigation with respect to
12 that input for purposes of this para-
13 graph.”.

14 **SEC. 218. CLARIFICATION OF FACTORS FOR DETERMINING**
15 **WHETHER A COUNTRY IS A NONMARKET**
16 **ECONOMY COUNTRY.**

17 Section 771(18)(B) of the Tariff Act of 1930 (19
18 U.S.C. 1677(18)(B)) is amended—

- 19 (1) in clause (v), by striking “and” at the end;
20 (2) by redesignating clause (vi) as clause (vii);
21 and
22 (3) by inserting after clause (v) the following:

23 “(vi) the extent to which the govern-
24 ment of the foreign country enforces and
25 administers its laws, legal and administra-

1 tive procedures, and other policies in an
2 open and transparent manner that affords
3 all parties, whether foreign or domestic,
4 due process and equal and non-discrimina-
5 tory treatment under those laws, proce-
6 dures, and policies, and”.

7 **SEC. 219. APPLICATION TO CANADA AND MEXICO.**

8 Pursuant to article 1902 of the North American Free
9 Trade Agreement and section 408 of the North American
10 Free Trade Agreement Implementation Act (19 U.S.C.
11 3438), the amendments made by this subtitle shall apply
12 with respect to goods from Canada and Mexico.

13 **TITLE III—TRADE**
14 **ENFORCEMENT**

15 **Subtitle A—Trade and**
16 **Environment Enforcement**

17 **SEC. 301. SHORT TITLE.**

18 This subtitle may be cited as the “Trade and Envi-
19 ronment Enforcement Act” or “Green 301 Act”.

20 **SEC. 302. ENVIRONMENTAL PROTECTION IN TRADE RELA-**
21 **TIONS.**

22 Section 301(d)(3)(B) of the Trade Act of 1974 (19
23 U.S.C. 2411(d)(3)(B)) is amended—

24 (1) in clause (ii), by striking “or” at the end;

1 (2) in clause (iii)(V), by striking the period at
2 the end and inserting “, or”; and

3 (3) by adding at the end the following new
4 clause:

5 “(iv) constitutes a persistent pattern
6 of conduct that—

7 “(I) fails to effectively enforce
8 the environmental laws of a foreign
9 country;

10 “(II) waives or otherwise dero-
11 gates from the environmental laws of
12 a foreign country or weakens the pro-
13 tections afforded by such laws;

14 “(III) fails to provide for judicial
15 or administrative proceedings giving
16 access to remedies for violations of the
17 environmental laws of a foreign coun-
18 try,

19 “(IV) fails to provide appropriate
20 and effective sanctions or remedies for
21 violations of the environmental laws of
22 a foreign country, or

23 “(V) fails to implement environ-
24 mental commitments in agreements to

1 which a foreign country and the
2 United States are a party.”.

3 **SEC. 303. IDENTIFICATION OF FOREIGN COUNTRY TRADE**
4 **PRACTICES THAT NEGATIVELY AFFECT THE**
5 **ENVIRONMENT.**

6 (a) IN GENERAL.—Chapter 1 of title III of the Trade
7 Act of 1974 (19 U.S.C. 2411 et seq.) is amended by add-
8 ing at the end the following:

9 **“SEC. 311. IDENTIFICATION OF FOREIGN COUNTRY TRADE**
10 **PRACTICES THAT NEGATIVELY AFFECT THE**
11 **ENVIRONMENT.**

12 “(a) IDENTIFICATION.—

13 “(1) IN GENERAL.—The Trade Representative
14 shall identify those foreign country trade practices
15 that cause negative environmental impacts on the
16 protection of human, animal, or plant life or health,
17 or the conservation of exhaustible natural resources
18 in the United States, the foreign country, a third
19 country, or internationally.

20 “(2) FACTORS.—In identifying foreign country
21 trade practices under paragraph (1), the Trade Rep-
22 resentative shall take into account all relevant fac-
23 tors, including—

1 “(A) the strength of the connection be-
2 tween trade and the negative environmental im-
3 pact;

4 “(B) the significance of the negative envi-
5 ronmental impact on the protection of human,
6 animal or plant life or health, or the conserva-
7 tion of exhaustible natural resources; and

8 “(C) the costs and benefits of mitigating
9 the negative environmental impact through the
10 remedies described in this section.

11 “(3) CONSULTATION.—In identifying foreign
12 country trade practices under paragraph (1), the
13 Trade Representative shall provide the opportunity
14 for input by and consultation with interested per-
15 sons, including private or nongovernmental organiza-
16 tions working towards environmental protection or
17 conservation, domestic industrial users of any goods
18 that may be affected by this section, and appropriate
19 Federal departments and agencies.

20 “(b) REPORT.—

21 “(1) IN GENERAL.—Not later than 270 days
22 after the date of submission of a report under sec-
23 tion 181(b) of this Act, and every 2 years thereafter,
24 the Trade Representative shall submit to the Com-
25 mittee on Ways and Means of the House of Rep-

1 representatives and the Committee on Finance of the
2 Senate and publish in the Federal Register a report
3 on the foreign country trade practices identified
4 under subsection (a).

5 “(2) MATTERS TO BE INCLUDED.—The Trade
6 Representative may include in the report, if appro-
7 priate—

8 “(A) a description of other foreign country
9 trade practices that may in the future warrant
10 inclusion in the report as foreign country trade
11 practices that negatively affect the environment;
12 and

13 “(B) a statement regarding other foreign
14 country trade practices that negatively affect
15 the environment that have not been identified
16 because they are subject to other provisions of
17 United States trade law, existing bilateral trade
18 agreements, or trade negotiations, and progress
19 is being made toward the mitigation, reduction,
20 or elimination of the negative environmental im-
21 pacts of such foreign country trade practices.”.

22 (b) CLERICAL AMENDMENT.—The table of contents
23 for the Trade Act of 1974 is amended by inserting after
24 the item relating to section 310 the following new item:

 “Sec. 311. Identification of foreign country trade practices that negatively af-
 fect the environment.”.

1 **Subtitle B—Interagency Trade**
2 **Enforcement Center**

3 **SEC. 311. SHORT TITLE.**

4 This subtitle may be cited as the “Trade Enforce-
5 ment Act of 2015”.

6 **SEC. 312. ESTABLISHMENT OF INTERAGENCY TRADE EN-**
7 **FORCEMENT CENTER.**

8 (a) **IN GENERAL.**—Chapter 4 of title I of the Trade
9 Act of 1974 (19 U.S.C. 2171) is amended by adding at
10 the end the following:

11 **“SEC. 142. INTERAGENCY TRADE ENFORCEMENT CENTER.**

12 “(a) **ESTABLISHMENT OF CENTER.**—There is estab-
13 lished in the Office of the United States Trade Represent-
14 ative an Interagency Trade Enforcement Center (in this
15 section referred to as the ‘Center’).

16 “(b) **FUNCTIONS OF CENTER.**—

17 “(1) **IN GENERAL.**—The Center shall—

18 “(A) serve as the primary forum within the
19 Federal Government for the Office of the
20 United States Trade Representative and other
21 agencies to coordinate the enforcement of
22 United States trade rights under international
23 trade agreements and the enforcement of
24 United States trade remedy laws;

1 “(B) coordinate among the Office of the
2 United States Trade Representative, other
3 agencies with responsibilities relating to trade,
4 and the intelligence community the exchange of
5 information related to potential violations of
6 international trade agreements by foreign trad-
7 ing partners of the United States; and

8 “(C) conduct outreach to United States
9 workers, businesses, and other interested per-
10 sons to foster greater participation in the iden-
11 tification and reduction or elimination of for-
12 eign trade barriers and unfair foreign trade
13 practices.

14 “(2) COORDINATION OF TRADE ENFORCE-
15 MENT.—

16 “(A) IN GENERAL.—The Center shall co-
17 ordinate matters relating to the enforcement of
18 United States trade rights under international
19 trade agreements and the enforcement of
20 United States trade remedy laws among the Of-
21 fice of the United States Trade Representative
22 and the following agencies:

23 “(i) The Department of State.

24 “(ii) The Department of the Treas-
25 ury.

1 “(iii) The Department of Justice.

2 “(iv) The Department of Agriculture.

3 “(v) The Department of Commerce.

4 “(vi) The Department of Homeland
5 Security.

6 “(vii) The Office of the Director of
7 National Intelligence.

8 “(viii) Such other agencies as the
9 President, or the United States Trade
10 Representative, may designate.

11 “(B) CONSULTATIONS ON INTELLECTUAL
12 PROPERTY RIGHTS.—In matters relating to the
13 enforcement of United States trade rights in-
14 volving intellectual property rights, the Center
15 shall consult with the Intellectual Property En-
16 forcement Coordinator appointed pursuant to
17 section 301 of the Prioritizing Resources and
18 Organization for Intellectual Property Act of
19 2008 (15 U.S.C. 8111).

20 “(c) PERSONNEL.—

21 “(1) DIRECTOR.—The head of the Center shall
22 be the Director, who shall be the Deputy United
23 States Trade Representative for Trade Enforcement.

24 “(2) DEPUTY DIRECTOR.—There shall be in the
25 Center a Deputy Director, who shall—

1 “(A) be appointed by the Secretary of
2 Commerce from among full-time senior-level of-
3 ficials of the Department of Commerce and de-
4 tailed to the Center; and

5 “(B) report directly to the Director.

6 “(3) INTELLIGENCE COMMUNITY LIAISON.—

7 There shall be in the Center an Intelligence Commu-
8 nity Liaison, who shall be—

9 “(A) appointed from among officials of
10 agencies in the intelligence community at the
11 recommendation of the Director of National In-
12 telligence; and

13 “(B) detailed to the Center by the official’s
14 agency.

15 “(4) ADDITIONAL EMPLOYEES.—The agencies
16 specified in subsection (b)(2)(A) and agencies in the
17 intelligence community recommended by the Direc-
18 tor of National Intelligence may, in consultation
19 with the Director, detail or assign their employees to
20 the Center without reimbursement to support the
21 functions of the Center.

22 “(d) ADMINISTRATION.—Funding and administrative
23 support for the Center shall be provided by the Office of
24 the United States Trade Representative.

1 “(e) ANNUAL REPORT.—Not later than one year
2 after the date of the enactment of this section, and not
3 less frequently than annually thereafter, the Director shall
4 submit to the Committee on Finance of the Senate and
5 the Committee on Ways and Means of the House of Rep-
6 resentatives a report on the actions taken by the Center
7 in the preceding year with respect to the enforcement of
8 United States trade rights under international trade
9 agreements and the enforcement of United States trade
10 remedy laws.

11 “(f) DEFINITIONS.—In this section:

12 “(1) INTELLIGENCE COMMUNITY.—The term
13 ‘intelligence community’ has the meaning given that
14 term in section 3(4) of the National Security Act of
15 1947 (50 U.S.C. 3003(4)).

16 “(2) UNITED STATES TRADE REMEDY LAWS.—
17 The term ‘United States trade remedy laws’ means
18 the following:

19 “(A) Chapter 1 of title II of the Trade Act
20 of 1974 (19 U.S.C. 2251 et seq.).

21 “(B) Chapter 1 of title III of that Act (19
22 U.S.C. 2411 et seq.).

23 “(C) Sections 406 and 421 of that Act (19
24 U.S.C. 2436 and 2451).

1 “(D) Sections 332 and 337 of the Tariff
2 Act of 1930 (19 U.S.C. 1332 and 1337).

3 “(E) Investigations initiated by the admin-
4 istering authority (as defined in section 771 of
5 that Act (19 U.S.C. 1677)) under title VII of
6 that Act (19 U.S.C. 1671 et seq.).

7 “(F) Section 281 of the Uruguay Round
8 Agreements Act (19 U.S.C. 3571).

9 “(3) UNITED STATES TRADE RIGHTS.—The
10 term ‘United States trade rights’ means any right,
11 benefit, or advantage to which the United States is
12 entitled under an international trade agreement and
13 that could be effectuated through the use of a dis-
14 pute settlement proceeding.”.

15 (b) CLERICAL AMENDMENT.—The table of contents
16 for the Trade Act of 1974 is amended by inserting after
17 the item relating to section 141 the following:

 “Sec. 142. Interagency Trade Enforcement Center.”.

18 **SEC. 313. ESTABLISHMENT OF DEPUTY UNITED STATES**
19 **TRADE REPRESENTATIVE FOR TRADE EN-**
20 **FORCEMENT AND CHIEF MANUFACTURING**
21 **NEGOTIATOR.**

22 (a) ESTABLISHMENT OF POSITIONS.—Section
23 141(b)(2) of the Trade Act of 1974 (19 U.S.C.
24 2171(b)(2)) is amended to read as follows:

1 “(2) There shall be in the Office 4 Deputy United
2 States Trade Representatives, including the Deputy
3 United States Trade Representative for Trade Enforce-
4 ment, one Chief Agricultural Negotiator, and one Chief
5 Manufacturing Negotiator who shall all be appointed by
6 the President, by and with the advice and consent of the
7 Senate. As an exercise of the rulemaking power of the
8 Senate, any nomination of a Deputy United States Trade
9 Representative, the Chief Agricultural Negotiator, or the
10 Chief Manufacturing Negotiator submitted to the Senate
11 for its advice and consent, and referred to a committee,
12 shall be referred to the Committee on Finance. Each Dep-
13 uty United States Trade Representative, the Chief Agri-
14 cultural Negotiator, and the Chief Manufacturing Nego-
15 tiator shall hold office at the pleasure of the President
16 and shall have the rank of Ambassador.”.

17 (b) FUNCTIONS OF POSITIONS.—Section 141(c) of
18 the Trade Act of 1974 (19 U.S.C. 2171(c)) is amended—

19 (1) by moving paragraph (5) 2 ems to the left;

20 and

21 (2) by adding at the end the following:

22 “(6)(A) The principal function of the Deputy United
23 States Trade Representative for Trade Enforcement shall
24 be to ensure that United States trading partners comply

1 with trade agreements to which the United States is a
2 party.

3 “(B) The Deputy United States Trade Representa-
4 tive for Trade Enforcement shall—

5 “(i) serve as the Director of the Interagency
6 Trade Enforcement Center under section 142 and
7 oversee the operations of the Center;

8 “(ii) assist the United States Trade Represent-
9 ative in investigating and prosecuting disputes be-
10 fore the World Trade Organization and pursuant to
11 other bilateral or regional trade agreements to which
12 the United States is a party;

13 “(iii) assist the United States Trade Represent-
14 ative in carrying out the functions of the United
15 States Trade Representative under subsection (d);

16 “(iv) make recommendations with respect to the
17 administration of United States trade remedy laws
18 relating to barriers imposed by foreign governments
19 to the importation of United States goods, services,
20 and intellectual property, and other trade matters;
21 and

22 “(v) perform such other functions as the United
23 States Trade Representative may direct.

24 “(7)(A) The principal function of the Chief Manufac-
25 turing Negotiator shall be to conduct trade negotiations

1 and to enforce trade agreements relating to United States
2 manufacturing products and services. The Chief Manufac-
3 turing Negotiator shall be a vigorous advocate on behalf
4 of United States manufacturing interests and shall per-
5 form such other functions as the United States Trade
6 Representative may direct.

7 “(B) Not later than one year after the date of the
8 enactment of this paragraph, and not less frequently than
9 annually thereafter, the Chief Manufacturing Negotiator
10 shall submit to the Committee on Finance of the Senate
11 and the Committee on Ways and Means of the House of
12 Representatives a report on the actions taken by the Chief
13 Manufacturing Negotiator in the preceding year.”.

14 (c) COMPENSATION.—Section 5314 of title 5, United
15 States Code, is amended—

16 (1) by striking “Deputy United States Trade
17 Representatives (3).” and inserting “Deputy United
18 States Trade Representatives (4).”; and

19 (2) by inserting “Chief Manufacturing Nego-
20 tiator.” after “Chief Agricultural Negotiator.”.

21 (d) CONFORMING AMENDMENT.—Section 141(c)(4)
22 of the Trade Act of 1974 (19 U.S.C. 2171(c)(4)) is
23 amended by inserting “(other than the Deputy United
24 States Trade Representative for Trade Enforcement)”
25 after “Deputy United States Trade Representative”.

1 (e) TECHNICAL AMENDMENTS.—Section 141(e) of
2 the Trade Act of 1974 (19 U.S.C. 2171(e)) is amended—

3 (1) in paragraph (1), by striking “5314” and
4 inserting “5315”; and

5 (2) in paragraph (2), by striking “the max-
6 imum rate of pay for grade GS–18, as provided in
7 section 5332” and inserting “the maximum rate of
8 pay for level IV of the Executive Schedule in section
9 5315”.

10 **Subtitle C—Supplemental Trade**
11 **Review, Oversight, Noncompli-**
12 **ance and General Enforcement**
13 **Resources**

14 **SEC. 321. SHORT TITLE.**

15 This subtitle may be cited as the “Supplemental
16 Trade Review, Oversight, Noncompliance and General En-
17 forcement Resources Act of 2015” or “STRONGER Act
18 of 2015”.

19 **SEC. 322. TRADE AGREEMENTS ENFORCEMENT TRUST**
20 **FUND.**

21 (a) ESTABLISHMENT; SOURCE OF FUNDS.—There is
22 established in the Treasury of the United States a trust
23 fund, to be known as the Trade Agreements Enforcement
24 Trust Fund (hereinafter in this section referred to as the
25 “Trust Fund”), consisting of such amounts as are trans-

1 ferred to the Trust Fund under subsection (b), any inter-
2 est earned on investment of amounts in the Trust Fund,
3 and any proceeds from the sale or redemption of any obli-
4 gations held in the Trust Fund under subsection (c).

5 (b) TRANSFER OF COUNTERVAILING AND ANTI-
6 DUMPING DUTIES TO TRUST FUND.—

7 (1) IN GENERAL.—The Secretary shall transfer
8 to the Trust Fund for each fiscal year that begins
9 on or after the date of the enactment of this Act an
10 amount equal to \$15,000,000 of the countervailing
11 duties and antidumping duties received in the Treas-
12 ury for such fiscal year.

13 (2) LIMITATION.—The total amount of funds in
14 the Trust Fund may not exceed \$30,000,000.

15 (c) INVESTMENT OF AMOUNTS; INTEREST AND PRO-
16 CEEDS.—

17 (1) INVESTMENT OF AMOUNTS.—The Secretary
18 shall be responsible for investing such portion of the
19 Trust Fund as is not, in the judgment of the Sec-
20 retary, required to meet current withdrawals. Such
21 investments shall only be made in interest-bearing
22 obligations of the United States or in obligations
23 guaranteed as to both principal and interest by the
24 United States.

1 (2) INTEREST AND PROCEEDS.—The interest
2 on, and the proceeds from the sale or redemption of,
3 any obligations held in Trust Fund shall be credited
4 to and form a part of the Trust Fund.

5 (d) FREQUENCY OF TRANSFERS; ADJUSTMENTS.—

6 (1) FREQUENCY OF TRANSFERS.—The Sec-
7 retary shall transfer amounts required to be trans-
8 ferred to the Trust Fund under subsection (b) at
9 least quarterly from the general fund of the Treas-
10 ury to the Trust Fund on the basis of estimates
11 made by the Secretary.

12 (2) ADJUSTMENTS.—The Secretary shall make
13 proper adjustment in the amounts subsequently
14 transferred to the Trust Fund to the extent prior es-
15 timates were in excess of or less than the amounts
16 required to be transferred to the Trust Fund.

17 **SEC. 323. AVAILABILITY OF AMOUNTS FROM TRUST FUND.**

18 (a) IN GENERAL.—The President is authorized to
19 make available such sums as are available in the Trust
20 Fund, including any amounts not obligated in previous fis-
21 cal years, to—

22 (1) the United States Trade Representative to
23 take the actions described in subsection (b)(1); and

24 (2) the United States Trade Representative, the
25 Secretary of State, the Administrator of the United

1 States Agency for International Development, the
2 Secretary of Labor, and the heads of other depart-
3 ments and agencies with relevant expertise, as ap-
4 propriate, to take the actions described in subsection
5 (b)(2).

6 (b) ACTIONS.—

7 (1) RELATING TO ENFORCEMENT.—The actions
8 described in this paragraph are the following:

9 (A) To seek to enforce and resolve any in-
10 consistencies with the provisions, commitments,
11 and obligations of any party made pursuant to
12 any free trade agreement with the United
13 States.

14 (B) To monitor the implementation of
15 commitments and obligations of any party made
16 pursuant to any free trade agreement with the
17 United States for purposes of systematically as-
18 sessing, identifying, investigating, or initiating
19 steps to address inconsistencies with such com-
20 mitments and obligations.

21 (C) To investigate and respond to petitions
22 pursuant to section 301 of the Trade Act of
23 1974 (19 U.S.C. 2411).

24 (D) To seek to enforce and resolve incon-
25 sistencies with the provisions, commitments,

1 and obligations of World Trade Organization
2 member countries under the WTO Agreement
3 (as defined in section 2(9) of the Uruguay
4 Round Agreements Act) and the agreements
5 annexed to that Agreement (as specified in sec-
6 tion 101(d) of the Uruguay Round Agreements
7 Act).

8 (2) RELATING TO IMPLEMENTATION ASSIST-
9 ANCE AND LOCAL CAPACITY BUILDING.—The actions
10 described in this paragraph are the following:

11 (A) To ensure capacity-building efforts un-
12 dertaken by the United States pursuant to any
13 free trade agreement prioritize and give special
14 attention to the timely, consistent, and robust
15 implementation of any labor and environmental
16 commitments and obligations of any party to
17 that free trade agreement.

18 (B) To ensure capacity-building efforts un-
19 dertaken by the United States pursuant to any
20 free trade agreement are self-sustaining and
21 promote local ownership.

22 (C) To monitor and evaluate United States
23 capacity-building efforts described in subpara-
24 graphs (A) and (B) in a manner consistent with
25 section 324.

1 (c) LIMITATION.—Amounts made available in the
2 Trust Fund may not be used to negotiate any new free
3 trade agreements on or after the date of the enactment
4 of this Act.

5 (d) REPORT.—Not later than 18 months after the
6 date of entry into force of any new free trade agreement,
7 the United States Trade Representative, in conjunction
8 with the head of any other department or agency taking
9 actions under subsection (b)(2) pursuant to the free trade
10 agreement, shall submit to Congress a report that de-
11 scribed such actions.

12 **SEC. 324. COORDINATION AND ACCOUNTABILITY.**

13 (a) INTERAGENCY COMMITTEE.—

14 (1) IN GENERAL.—The President shall establish
15 a permanent interagency committee to ensure ac-
16 tions taken under section 323(b)(2) are effectively
17 prioritized, targeted, coordinated, and implemented.

18 (2) MEMBERS.—The committee shall consist of
19 the following:

20 (A) The Deputy United States Trade Rep-
21 resentative of the Office of the United States
22 Trade Representative, who shall serve as the
23 chair of the committee.

1 (B) The Under Secretary for Economic
2 Growth, Energy, and the Environment of the
3 Department of State.

4 (C) The Deputy Administrator of the
5 United States Agency for International Devel-
6 opment.

7 (D) The Deputy Undersecretary for Inter-
8 national Affairs of the Department of Labor.

9 (E) Such senior representatives from other
10 departments and agencies with relevant exper-
11 tise, as appropriate, to be appointed by the
12 chair of the committee.

13 (3) AD HOC MEMBERS.—The United States am-
14 bassador to any country receiving United States as-
15 sistance by reason of actions taken under section
16 323(b)(2) shall serve as an ad hoc member of the
17 committee for the period of time during which the
18 planning, budgeting, and implementation of such as-
19 sistance is carried out.

20 (4) CONSULTATION.—The head of any depart-
21 ment or agency that is taking actions under section
22 323(b)(2) shall consult with the committee during
23 the drafting of any action plan, program, or effort
24 led by the United States for purposes of taking such
25 actions.

1 (b) ACCOUNTABILITY.—The United States shall pro-
2 mote aid effectiveness and accountability through trans-
3 parency, evaluation and learning, and fostering country
4 ownership and implementation of United States assistance
5 under section 323(b)(2) in the following manner:

6 (1) INCREASE TRANSPARENCY.—The inter-
7 agency committee established under subsection (a)
8 shall publish timely, comprehensive, and detailed in-
9 formation regarding the implementation assistance
10 and local capacity building described in section
11 323(b)(2) on a quarterly basis in IATI XML format,
12 consistent with the United States commitment to
13 full compliance with the International Aid Trans-
14 parency Initiative.

15 (2) STRENGTHEN EVALUATION.—The inter-
16 agency committee established under subsection (a)
17 shall conduct evaluations that are independent,
18 methodologically rigorous, made public in their en-
19 tirety, and transmitted to the International Aid
20 Transparency Initiative Registry as appropriate.

21 (3) PROMOTE LEARNING.—The interagency
22 committee established under subsection (a) shall de-
23 velop and implement procedures for ensuring that
24 data and evaluation results inform decision-making

1 and lead to the revision and promotion of best prac-
2 tices among relevant executive branch agencies.

3 **SEC. 325. DEFINITIONS.**

4 In this subtitle:

5 (1) **ANTIDUMPING DUTY.**—The term “anti-
6 dumping duty” means an antidumping duty imposed
7 under section 731 of the Tariff Act of 1930 (19
8 U.S.C. 1673)

9 (2) **COUNTERVAILING DUTY.**—The term “coun-
10 tervailing duty” means a countervailing duty im-
11 posed under section 701 of the Tariff Act of 1930
12 (19 U.S.C. 1671).

13 (3) **SECRETARY.**—Except as otherwise provided,
14 the term “Secretary” means the Secretary of the
15 Treasury.

16 **Subtitle D—Stand Up for America**

17 **SEC. 331. SHORT TITLE.**

18 This subtitle may be cited as the “Stand Up for
19 America Act of 2015”.

20 **SEC. 332. OFFICE OF THE CONGRESSIONAL TRADE EN-
21 FORCER.**

22 (a) **ESTABLISHMENT.**—There is established in the
23 legislative branch an Office of the Congressional Trade
24 Enforcer (in this section referred to as the “Office”).

25 (b) **CONGRESSIONAL TRADE ENFORCER.**—

1 (1) APPOINTMENT.—The head of the Office
2 shall be a Congressional Trade Enforcer, who shall
3 be appointed by the Speaker of the House of Rep-
4 resentatives, the minority leader of the House of
5 Representatives, the majority leader of the Senate,
6 and the minority leader of the Senate after consid-
7 ering recommendations received from the Committee
8 on Ways and Means of the House of Representatives
9 and Committee on Finance of the Senate, without
10 regard to political affiliation and solely on the basis
11 of fitness to perform the functions described in sub-
12 section (d).

13 (2) TERM.—The term of office of the Congres-
14 sional Trade Enforcer shall be 5 years. An indi-
15 vidual serving as Congressional Trade Enforcer at
16 the expiration of a term may continue to serve until
17 a successor is appointed. The Congressional Trade
18 Enforcer may be removed by either the House of
19 Representatives or the Senate by resolution.

20 (3) COMPENSATION.—The Congressional Trade
21 Enforcer shall receive compensation at an annual
22 rate of pay that is equal to the lower of—

23 (A) the highest annual rate of compensa-
24 tion of any officer of the Senate; or

1 (B) the highest annual rate of compensa-
2 tion of any officer of the House of Representa-
3 tives.

4 (c) PERSONNEL.—The Congressional Trade Enforcer
5 shall appoint and fix the compensation of such personnel
6 as may be necessary to carry out the functions described
7 in subsection (d). All personnel of the Office shall be ap-
8 pointed without regard to political affiliation and solely on
9 the basis of their fitness to perform their duties. The Con-
10 gressional Trade Enforcer may prescribe the duties and
11 responsibilities of the personnel of the Office, and delegate
12 to them authority to perform any of the duties, powers,
13 and functions imposed on the Office. For purposes of pay
14 (other than pay of the Congressional Trade Enforcer) and
15 employment benefits, rights, and privileges, all personnel
16 of the Office shall be treated as if they were employees
17 of the House of Representatives.

18 (d) FUNCTIONS.—

19 (1) PRINCIPLE FUNCTION.—The principle func-
20 tion of the Congressional Trade Enforcer shall be to
21 ensure compliance by trading partners of the United
22 States with international trade agreements to which
23 the United States is a party.

24 (2) OTHER FUNCTIONS; ACTIONS BY USTR.—

1 (A) IN GENERAL.—The Congressional
2 Trade Enforcer shall have the authority to in-
3 vestigate foreign trade practices that are bar-
4 riers to United States exports and issue indict-
5 ments in cases where such practices violate any
6 of the Uruguay Round Agreements or any bilat-
7 eral or regional trade agreement to which the
8 United States is a party.

9 (B) SUBMISSION OF INDICTMENTS.—The
10 Congressional Trade Enforcer shall submit in-
11 dictments referred to in subparagraph (A) to
12 the Committee on Ways and Means of the
13 House of Representatives, the Committee on
14 Finance of the Senate, and the United States
15 Trade Representative.

16 (C) ACTION PURSUANT TO INDICTMENT.—
17 Within 30 days after receiving an indictment
18 under subparagraph (B), the Trade Representa-
19 tive should commence dispute resolution proce-
20 dures in the appropriate forum against the
21 country or countries that are the subject of the
22 indictment unless—

23 (i) prior to the date of filing, the for-
24 eign country or countries involved enters
25 into an agreement with the United States

1 to eliminate the practice that is incon-
2 sistent with its international obligations; or
3 (ii) in extraordinary cases, the filing
4 of the case would cause serious harm to
5 the national security of the United States.

6 (D) REPORT.—If the Trade Representative
7 does not commence dispute resolution proce-
8 dures under subparagraph (C) pursuant to an
9 indictment under subparagraph (B), the Trade
10 Representative shall, not later than 30 days
11 after receiving the indictment, submit to the
12 Committee on Ways and Means of the House of
13 Representatives and the Committee on Finance
14 of the Senate a report containing the reasons
15 therefor and shall publish notice of the decision,
16 together with a summary of such reasons, in
17 the Federal Register.

18 (3) ACTION PURSUANT TO JOINT RESOLU-
19 TION.—

20 (A) IN GENERAL.—If the Trade Rep-
21 resentative does not commence dispute resolu-
22 tion procedures under paragraph (2)(C) pursu-
23 ant to an indictment under paragraph (2)(B),
24 then the Trade Representative shall commence
25 dispute resolution procedures in the appropriate

1 forum pursuant to the indictment upon the en-
2 actment pursuant to the requirements of sub-
3 paragraph (B) of a joint resolution described in
4 subparagraph (C).

5 (B) REQUIREMENTS.—(i) The require-
6 ments of this subparagraph are met if the joint
7 resolution is enacted under subparagraph (C)
8 and—

9 (I) the Congress adopts and transmits
10 the joint resolution to the President before
11 the end of the 90-day period (excluding
12 any day described in section 154(b) of the
13 Trade Act of 1974), beginning on the date
14 on which the Congressional Trade En-
15 forcer submits the indictment under para-
16 graph (2)(B); and

17 (II) if the President vetoes the joint
18 resolution, each House of Congress votes
19 to override that veto on or before the later
20 of the last day of the 90-day period re-
21 ferred to in subclause (I) or the last day
22 of the 15-day period (excluding any day
23 described in section 154(b) of the Trade
24 Act of 1974) beginning on the date on

1 which the Congress receives the veto mes-
2 sage from the President.

3 (ii) A joint resolution to which this para-
4 graph applies may be introduced at any time on
5 or after the end of the 30-day period described
6 in paragraph (2)(C), and before the end of the
7 90-day period referred to in clause (i).

8 (C) JOINT RESOLUTIONS.—

9 (i) JOINT RESOLUTIONS.—For pur-
10 pose of this paragraph, the term “joint
11 resolution” means only a joint resolution of
12 the 2 Houses of Congress, the matter after
13 the resolving clause of which is as follows:
14 “That the United States Trade Represent-
15 ative shall commence dispute resolution
16 procedures against _____ in
17 _____ pursuant to the indictment
18 submitted under section 332(d)(2)(B) of
19 the Stand Up for America Act of 2015 on
20 _____.”, with the first blank space
21 being filled with the country or countries
22 that are the subject of the indictment, the
23 second blank space being filled with the
24 appropriate forum, and the third blank

1 space being filled with the appropriate
2 date.

3 (ii) PROCEDURES.—(I) Joint resolu-
4 tions may be introduced in either House of
5 the Congress by any member of such
6 House.

7 (II) Subject to the provisions of this
8 subparagraph, the provisions of subsections
9 (b), (d), (e), and (f) of section 152 of the
10 Trade Act of 1974 (19 U.S.C. 2192 (b),
11 (d), (e), and (f)) apply to joint resolutions
12 to the same extent as such provisions apply
13 to resolutions under that section.

14 (III) If the committee of either House
15 to which a joint resolution has been re-
16 ferred has not reported it by the close of
17 the 45th day after its introduction (exclud-
18 ing any day described in section 154(b) of
19 the Trade Act of 1974), such committee
20 shall be automatically discharged from fur-
21 ther consideration of the joint resolution
22 and it shall be placed on the appropriate
23 calendar.

24 (IV) It is not in order for—

1 (aa) the Senate to consider any
2 joint resolution unless it has been re-
3 ported by the Committee on Finance
4 or the committee has been discharged
5 under subclause (III); or

6 (bb) the House of Representa-
7 tives to consider any joint resolution
8 unless it has been reported by the
9 Committee on Ways and Means or the
10 committee has been discharged under
11 subclause (III).

12 (V) A motion in the House of Rep-
13 resentatives to proceed to the consideration
14 of a joint resolution may only be made on
15 the second legislative day after the cal-
16 endar day on which the Member making
17 the motion announces to the House his or
18 her intention to do so.

19 (iii) CONSIDERATION OF SECOND RES-
20 OLUTION NOT IN ORDER.—It shall not be
21 in order in either the House of Representa-
22 tives or the Senate to consider a joint reso-
23 lution (other than a joint resolution re-
24 ceived from the other House), if that

1 House has previously adopted a joint reso-
2 lution under this paragraph.

3 (iv) RULES OF HOUSE OF REP-
4 RESENTATIVES AND SENATE.—This para-
5 graph is enacted by the Congress—

6 (I) as an exercise of the rule-
7 making power of the House of Rep-
8 resentatives and the Senate, respec-
9 tively, and as such is deemed a part
10 of the rules of each House, respec-
11 tively, and such procedures supersede
12 other rules only to the extent that
13 they are inconsistent with such other
14 rules; and

15 (II) with the full recognition of
16 the constitutional right of either
17 House to change the rules (so far as
18 relating to the procedures of that
19 House) at any time, in the same man-
20 ner, and to the same extent as any
21 other rule of that House.

22 (4) DEFINITIONS.—In this subsection:

23 (A) INDICTMENT.—The term “indictment”
24 means a formal written analysis setting forth
25 the legal explanation of the manner in which a

1 foreign trade practice of a country or countries
2 violates any of the Uruguay Round Agreements
3 or any bilateral or regional trade agreement to
4 which the United States is a party.

5 (B) URUGUAY ROUND AGREEMENTS.—The
6 term “Uruguay Round Agreements” means any
7 of the agreements approved by the Congress
8 under section 101(a)(1) of the Uruguay Round
9 Agreements Act (19 U.S.C. 3511(a)(1)).

10 (e) OFFICE OF MARKET ACCESS ASSISTANCE.—

11 (1) ESTABLISHMENT.—There is established in
12 the Office of the Congressional Trade Enforcer an
13 Office of Market Access Assistance.

14 (2) FUNCTIONS.—The Office of Market Access
15 Assistance shall provide technical and legal assist-
16 ance and advice to eligible small businesses to enable
17 such small businesses to prepare and file petitions
18 (other than those which, in the opinion of the Office
19 of Market Access Assistance, are frivolous) under
20 section 302 of the Trade Act of 1974.

21 (3) DEFINITION.—The term “eligible small
22 business” means any business concern which, in the
23 judgment of the Office of Market Access Assistance,
24 due to its small size, has neither adequate internal
25 resources nor financial ability to obtain qualified

1 outside assistance in preparing and filing petitions
2 and complaints under section 302 of the Trade Act
3 of 1974. In determining whether a business concern
4 is an “eligible small business,” the Office of Market
5 Access Assistance may consult with the Adminis-
6 trator of the Small Business Administration and the
7 heads of other appropriate Federal departments and
8 agencies.

9 (f) RELATIONSHIP TO EXECUTIVE BRANCH.—The
10 Congressional Trade Enforcer is authorized to secure in-
11 formation, data, estimates, and statistics directly from the
12 various departments, agencies, and establishments of the
13 executive branch of Government and the regulatory agen-
14 cies and commissions of the Government. All such depart-
15 ments, agencies, establishments, and regulatory agencies
16 and commissions shall furnish the Congressional Trade
17 Enforcer with any available material which the Congres-
18 sional Trade Enforcer determines to be necessary in the
19 performance of the functions of the Office. The Congres-
20 sional Trade Enforcer is also authorized, upon agreement
21 with the head of any such department, agency, establish-
22 ment, or regulatory agency or commission, to utilize its
23 services, facilities, and personnel with or without reim-
24 bursement; and the head of each such department, agency,
25 establishment, or regulatory agency or commission is au-

1 thORIZED to provide the Office such services, facilities, and
2 personnel.

3 (g) RELATIONSHIP TO OTHER AGENCIES OF CON-
4 GRESS.—In carrying out the functions of the Office, and
5 for the purpose of coordinating the operations of the Of-
6 fice with those of other congressional agencies with a view
7 to utilizing most effectively the information, services, and
8 capabilities of all such agencies in carrying out the various
9 responsibilities assigned to each, the Congressional Trade
10 Enforcer is authorized to obtain information, data, esti-
11 mates, and statistics developed by the Government Ac-
12 countability Office, and the Library of Congress, and
13 (upon agreement with them) to utilize their services, facili-
14 ties, and personnel with or without reimbursement. The
15 Comptroller General and the Librarian of Congress are
16 authorized to provide the Office with the information,
17 data, estimates, and statistics, and the services, facilities,
18 and personnel, referred to in the preceding sentence.

19 (h) AUTHORIZATIONS OF APPROPRIATIONS.—There
20 are authorized to be appropriated to the Office to carry
21 out this section such sums as may be necessary for each
22 fiscal year.

1 **SEC. 333. IDENTIFICATION OF TRADE EXPANSION PRIOR-**
2 **ITIES.**

3 (a) IDENTIFICATION OF TRADE EXPANSION PRIOR-
4 ITIES.—Section 310 of the Trade Act of 1974 is amended
5 to read as follows:

6 **“SEC. 310. IDENTIFICATION OF TRADE EXPANSION PRIOR-**
7 **ITIES.**

8 “(a) IDENTIFICATION.—

9 “(1) IDENTIFICATION AND REPORT.—Within 30
10 days after the submission in each calendar year of
11 the report required by section 181(b), the Congres-
12 sional Trade Enforcer shall—

13 “(A) review United States trade expansion
14 priorities;

15 “(B) identify priority foreign country prac-
16 tices, including currency manipulation, the
17 elimination of which is likely to have the most
18 significant potential to increase United States
19 exports, either directly or through the establish-
20 ment of a beneficial precedent; and

21 “(C) submit to the Committee on Finance
22 of the Senate and the Committee on Ways and
23 Means of the House of Representatives and the
24 Trade Representative and publish in the Fed-
25 eral Register a report on the priority foreign
26 country practices so identified.

1 “(2) FACTORS.—In identifying priority foreign
2 country practices under paragraph (1), the Congres-
3 sional Trade Enforcer shall take into account all rel-
4 evant factors, including—

5 “(A) the major barriers and trade dis-
6 torting practices described in the National
7 Trade Estimate Report required under section
8 181(b);

9 “(B) the trade agreements to which a for-
10 eign country is a party and its compliance with
11 those agreements;

12 “(C) the medium- and long-term implica-
13 tions of foreign government procurement plans;
14 and

15 “(D) the international competitive position
16 and export potential of United States products
17 and services.

18 “(3) CONTENTS OF REPORT.—The Congres-
19 sional Trade Enforcer may include in the report, if
20 appropriate—

21 “(A) a description of foreign country prac-
22 tices that may in the future warrant identifica-
23 tion as priority foreign country practices; and

24 “(B) a statement about other foreign coun-
25 try practices that were not identified because

1 they are already being addressed by provisions
2 of United States trade law, by existing bilateral
3 trade agreements, or as part of trade negotia-
4 tions with other countries, and because progress
5 is being made toward the elimination of such
6 practices.

7 “(4) DEFINITION.—In this subsection, the term
8 ‘Congressional Trade Enforcer’ means the head of
9 the Office of the Congressional Trade Enforcer es-
10 tablished pursuant to section 332 of the Stand Up
11 for America Act of 2015.

12 “(b) INITIATION OF CONSULTATIONS.—By no later
13 than the date that is 21 days after the date on which a
14 report is submitted to the appropriate congressional com-
15 mittees and the Trade Representative under subsection
16 (a)(1), the Trade Representative should seek consultations
17 with each foreign country identified in the report as en-
18 gaging in priority foreign country practices for the pur-
19 pose of reaching a satisfactory resolution of such priority
20 practices.

21 “(c) INITIATION OF INVESTIGATION.—If the Trade
22 Representative seeks consultations under subsection (b)
23 and a satisfactory resolution of the priority foreign coun-
24 try practices involved has not been reached within 90 days
25 after the date on which a report is submitted to the appro-

1 priate congressional committees under subsection (a)(1),
2 the Trade Representative shall initiate under section
3 302(b)(1) an investigation under this chapter with respect
4 to such priority foreign country practices.

5 “(d) AGREEMENTS FOR THE ELIMINATION OF BAR-
6 RIERS.—In the consultations with a foreign country that
7 the Trade Representative is required to request under sec-
8 tion 303(a) with respect to an investigation initiated by
9 reason of subsection (c), the Trade Representative shall
10 seek to negotiate an agreement that provides for the elimi-
11 nation of the practices that are the subject of the inves-
12 tigation as quickly as possible or, if elimination of the
13 practices is not feasible, an agreement that provides for
14 compensatory trade benefits.

15 “(e) REPORTS.—The Trade Representative shall in-
16 clude in the semiannual report required by section 309
17 a report on the status of any investigations initiated pur-
18 suant to subsection (c) and, where appropriate, the extent
19 to which such investigations have led to increased opportu-
20 nities for the export of products and services of the United
21 States.”.

22 (b) INITIAL REPORT ON CERTAIN PRACTICES.—Not
23 later than 90 days after the date of the enactment of this
24 Act, the Congressional Trade Enforcer shall identify, and
25 report to the Congress on, priority foreign trade practices

1 of the People’s Republic of China, the Russian Federation,
2 and the European Union, in accordance with section 310
3 of the Trade Act of 1974, as amended by subsection (a)
4 of this section. As part of its analysis, the Congressional
5 Trade Enforcer shall consider violations by the People’s
6 Republic of China and the Russian Federation of World
7 Trade Organization rules regarding the protection of intel-
8 lectual property rights, violations by the People’s Republic
9 of China of World Trade Organization rules regarding the
10 manipulation of currency, and violations by the European
11 Union of World Trade Organization rules regarding dis-
12 criminatory regional trade agreements.

13 (c) CONFORMING AMENDMENT.—The item relating
14 to section 310 in the table of contents of the Trade Act
15 of 1974 is amended to read as follows:

“Sec. 310. Identification of trade expansion priorities.”.

16 **Subtitle E—Enforcing Orders and**
17 **Reducing Customs Evasion**

18 **SEC. 341. SHORT TITLE.**

19 This subtitle may be cited as the “Enforcing Orders
20 and Reducing Customs Evasion Act of 2015”.

1 **PART 1—PROCEDURES**
2 **SEC. 351. PROCEDURES FOR INVESTIGATING CLAIMS OF**
3 **EVASION OF ANTIDUMPING AND COUNTER-**
4 **VAILING DUTY ORDERS.**

5 (a) IN GENERAL.—The Tariff Act of 1930 is amend-
6 ed by inserting after section 516A (19 U.S.C. 1516a) the
7 following:

8 **“SEC. 516B. PROCEDURES FOR INVESTIGATING CLAIMS OF**
9 **EVASION OF ANTIDUMPING AND COUNTER-**
10 **VAILING DUTY ORDERS.**

11 “(a) DEFINITIONS.—In this section:

12 “(1) ADMINISTERING AUTHORITY.—The term
13 ‘administering authority’ has the meaning given that
14 term in section 771(1).

15 “(2) APPROPRIATE CONGRESSIONAL COMMIT-
16 TEES.—The term ‘appropriate congressional com-
17 mittees’ means—

18 “(A) the Committee on Finance and the
19 Committee on Appropriations of the Senate;
20 and

21 “(B) the Committee on Ways and Means
22 and the Committee on Appropriations of the
23 House of Representatives.

24 “(3) COMMISSIONER.—The term ‘Commis-
25 sioner’ means the Commissioner responsible for U.S.
26 Customs and Border Protection.

1 “(4) COVERED MERCHANDISE.—The term ‘cov-
2 ered merchandise’ means merchandise that is subject
3 to—

4 “(A) an antidumping duty order issued
5 under section 736;

6 “(B) a finding issued under the Anti-
7 dumping Act, 1921; or

8 “(C) a countervailing duty order issued
9 under section 706.

10 “(5) ENTER; ENTRY.—The terms ‘enter’ and
11 ‘entry’ refer to the entry, or withdrawal from ware-
12 house for consumption, in the customs territory of
13 the United States.

14 “(6) EVADE; EVASION.—The terms ‘evade’ and
15 ‘evasion’ refer to entering covered merchandise into
16 the customs territory of the United States by means
17 of any document or electronically transmitted data
18 or information, written or oral statement, or act that
19 is material and false, or any omission that is mate-
20 rial, and that results in any cash deposit or other se-
21 curity or any amount of applicable antidumping or
22 countervailing duties being reduced or not being ap-
23 plied with respect to the merchandise.

1 “(7) INTERESTED PARTY.—The term ‘inter-
2 ested party’ has the meaning given that term in sec-
3 tion 771(9).

4 “(b) PROCEDURES FOR INVESTIGATING ALLEGA-
5 TIONS OF EVASION.—

6 “(1) INITIATION BY PETITION OR REFERRAL.—

7 “(A) IN GENERAL.—Not later than 10
8 days after the date on which the Commissioner
9 receives a petition described in subparagraph
10 (B) or a referral described in subparagraph (C),
11 the Commissioner shall initiate an investigation
12 pursuant to this paragraph.

13 “(B) PETITION DESCRIBED.—A petition
14 described in this subparagraph is a petition
15 that—

16 “(i) is filed with the Commissioner by
17 any party who is an interested party with
18 respect to covered merchandise;

19 “(ii) alleges that a person has entered
20 covered merchandise into the customs ter-
21 ritory of the United States through eva-
22 sion; and

23 “(iii) is accompanied by information
24 reasonably available to the petitioner sup-
25 porting the allegation.

1 “(C) REFERRAL DESCRIBED.—A referral
2 described in this subparagraph is information
3 submitted to the Commissioner by any other
4 Federal agency, including the Department of
5 Commerce or the United States International
6 Trade Commission, indicating that a person has
7 entered covered merchandise into the customs
8 territory of the United States through evasion.

9 “(2) DETERMINATIONS.—

10 “(A) PRELIMINARY DETERMINATION.—

11 “(i) IN GENERAL.—Not later than 90
12 days after the date on which the Commis-
13 sioner initiates an investigation under
14 paragraph (1), the Commissioner shall
15 issue a preliminary determination, based
16 on information available to the Commis-
17 sioner at the time of the determination,
18 with respect to whether there is a reason-
19 able basis to believe or suspect that the
20 covered merchandise was entered into the
21 customs territory of the United States
22 through evasion.

23 “(ii) EXTENSION.—The Commissioner
24 may extend by not more than 45 days the
25 time period specified in clause (i) if the

1 Commissioner determines that sufficient
2 information to make a preliminary deter-
3 mination under that clause is not available
4 within that time period or the inquiry is
5 unusually complex.

6 “(B) FINAL DETERMINATION.—

7 “(i) IN GENERAL.—Not later than
8 120 days after making a preliminary deter-
9 mination under subparagraph (A), the
10 Commissioner shall make a final deter-
11 mination, based on substantial evidence,
12 with respect to whether covered merchan-
13 dise was entered into the customs territory
14 of the United States through evasion.

15 “(ii) EXTENSION.—The Commissioner
16 may extend by not more than 60 days the
17 time period specified in clause (i) if the
18 Commissioner determines that sufficient
19 information to make a final determination
20 under that clause is not available within
21 that time period or the inquiry is unusually
22 complex.

23 “(iii) OPPORTUNITY FOR COMMENT;
24 HEARING.—After making a preliminary de-
25 termination under subparagraph (A) and

1 before issuing a final determination under
2 this subparagraph with respect to whether
3 covered merchandise was entered into the
4 customs territory of the United States
5 through evasion, the Commissioner shall—

6 “(I) provide any person alleged
7 to have entered the merchandise into
8 the customs territory of the United
9 States through evasion, and any per-
10 son that is an interested party with
11 respect to the merchandise, with an
12 opportunity to be heard;

13 “(II) upon request, hold a hear-
14 ing with respect to whether the cov-
15 ered merchandise was entered into the
16 customs territory of the United States
17 through evasion; and

18 “(III) provide an opportunity for
19 public comment.

20 “(C) AUTHORITY TO COLLECT AND VERIFY
21 ADDITIONAL INFORMATION.—In making a pre-
22 liminary determination under subparagraph (A)
23 or a final determination under subparagraph
24 (B), the Commissioner—

1 “(i) shall exercise all existing authori-
2 ties to collect information needed to make
3 the determination; and
4 “(ii) may collect such additional infor-
5 mation as is necessary to make the deter-
6 mination through such methods as the
7 Commissioner considers appropriate, in-
8 cluding by—
9 “(I) issuing a questionnaire with
10 respect to covered merchandise to—
11 “(aa) a person that filed a
12 petition under paragraph (1)(B);
13 “(bb) a person alleged to
14 have entered covered merchan-
15 dise into the customs territory of
16 the United States through eva-
17 sion; or
18 “(cc) any other person that
19 is an interested party with re-
20 spect to the covered merchandise;
21 or
22 “(II) conducting verifications, in-
23 cluding on-site verifications, of any
24 relevant information.
25 “(D) ADVERSE INFERENCE.—

1 “(i) IN GENERAL.—If the Commis-
2 sioner finds that a person that filed a peti-
3 tion under paragraph (1)(B), a person al-
4 leged to have entered covered merchandise
5 into the customs territory of the United
6 States through evasion, or a foreign pro-
7 ducer or exporter, has failed to cooperate
8 by not acting to the best of the person’s
9 ability to comply with a request for infor-
10 mation, the Commissioner may, in making
11 a preliminary determination under sub-
12 paragraph (A) or a final determination
13 under subparagraph (B), use an inference
14 that is adverse to the interests of that per-
15 son in selecting from among the facts oth-
16 erwise available to determine whether eva-
17 sion has occurred.

18 “(ii) ADVERSE INFERENCE DE-
19 SCRIBED.—An adverse inference used
20 under clause (i) may include reliance on in-
21 formation derived from—

22 “(I) the petition, if any, sub-
23 mitted under paragraph (1)(B) with
24 respect to the covered merchandise;

1 “(II) a determination by the
2 Commissioner in another investigation
3 under this section;

4 “(III) an investigation or review
5 by the administering authority under
6 title VII; or

7 “(IV) any other information
8 placed on the record.

9 “(E) NOTIFICATION AND PUBLICATION.—
10 Not later than 7 days after making a prelimi-
11 nary determination under subparagraph (A) or
12 a final determination under subparagraph (B),
13 the Commissioner shall—

14 “(i) provide notification of the deter-
15 mination to—

16 “(I) the administering authority;
17 and

18 “(II) the person that submitted
19 the petition under paragraph (1)(B)
20 or the Federal agency that submitted
21 the referral under paragraph (1)(C);
22 and

23 “(ii) provide the determination for
24 publication in the Federal Register.

25 “(3) BUSINESS PROPRIETARY INFORMATION.—

1 “(A) ESTABLISHMENT OF PROCEDURES.—

2 For each investigation initiated under para-
3 graph (1), the Commissioner shall establish
4 procedures for the submission of business pro-
5 prietary information under an administrative
6 protective order that—

7 “(i) protects against public disclosure
8 of such information; and

9 “(ii) for purposes of submitting com-
10 ments to the Commissioner, provides lim-
11 ited access to such information for—

12 “(I) the person that submitted
13 the petition under paragraph (1)(B)
14 or the Federal agency that submitted
15 the referral under paragraph (1)(C);
16 and

17 “(II) the person alleged to have
18 entered covered merchandise into the
19 customs territory of the United States
20 through evasion.

21 “(B) ADMINISTRATION IN ACCORDANCE
22 WITH OTHER PROCEDURES.—The procedures
23 established under subparagraph (A) shall be ad-
24 ministered, to the maximum extent practicable,
25 in accordance with administrative protective

1 order procedures under section 777 by the ad-
2 ministering authority.

3 “(C) DISCLOSURE OF BUSINESS PROPRI-
4 ETARY INFORMATION.—The Commissioner
5 shall, in accordance with the procedures estab-
6 lished under subparagraph (A), make all busi-
7 ness proprietary information presented to, or
8 obtained by, the Commissioner during an inves-
9 tigation available to the persons specified in
10 subparagraph (A)(ii) under an administrative
11 protective order, regardless of when such infor-
12 mation is submitted during an investigation.

13 “(4) REFERRALS TO OTHER FEDERAL AGEN-
14 CIES.—

15 “(A) AFTER PRELIMINARY DETERMINA-
16 TION.—Notwithstanding section 777 and sub-
17 ject to subparagraph (C), when the Commis-
18 sioner makes an affirmative preliminary deter-
19 mination under paragraph (2)(A), the Commis-
20 sioner shall, at the request of the head of an-
21 other Federal agency, transmit the administra-
22 tive record to the head of that agency.

23 “(B) AFTER FINAL DETERMINATION.—
24 Notwithstanding section 777 and subject to
25 subparagraph (C), when the Commissioner

1 makes an affirmative final determination under
2 paragraph (2)(B), the Commissioner shall, at
3 the request of the head of another Federal
4 agency, transmit the complete administrative
5 record to the head of that agency.

6 “(C) PROTECTIVE ORDERS.—Before trans-
7 mitting an administrative record to the head of
8 another Federal agency under subparagraph
9 (A) or (B), the Commissioner shall verify that
10 the other agency has in effect with respect to
11 the administrative record a protective order
12 that provides the same or a similar level of pro-
13 tection for the information in the administrative
14 record as the protective order in effect with re-
15 spect to such information under this subsection.

16 “(c) EFFECT OF DETERMINATIONS.—

17 “(1) EFFECT OF AFFIRMATIVE PRELIMINARY
18 DETERMINATION.—If the Commissioner makes a
19 preliminary determination in accordance with sub-
20 section (b)(2)(A) that there is a reasonable basis to
21 believe or suspect that covered merchandise was en-
22 tered into the customs territory of the United States
23 through evasion, the Commissioner shall—

24 “(A) suspend the liquidation of each unliq-
25 uidated entry of the covered merchandise that

1 is subject to the preliminary determination and
2 that entered on or after the date of the initi-
3 ation of the investigation under paragraph (1)
4 and, pursuant to the Commissioner's authority
5 under section 504(b), extend liquidation of each
6 unliquidated entry of the covered merchandise
7 that is subject to the preliminary determination
8 and that entered prior to the date of the initi-
9 ation of the investigation under paragraph (1);

10 "(B) review and reassess the amount of
11 bond or other security the importer is required
12 to post for each entry of merchandise described
13 in subparagraph (A);

14 "(C) require the posting of a cash deposit
15 with respect to each entry of merchandise de-
16 scribed in subparagraph (A); and

17 "(D) take such other measures as the
18 Commissioner determines appropriate to ensure
19 the collection of any duties that may be owed
20 with respect to merchandise described in sub-
21 paragraph (A) as a result of a final determina-
22 tion under subsection (b)(2)(B).

23 "(2) EFFECT OF NEGATIVE PRELIMINARY DE-
24 TERMINATION.—If the Commissioner makes a pre-
25 liminary determination in accordance with sub-

1 section (b)(2)(A) that there is not a reasonable basis
2 to believe or suspect that covered merchandise was
3 entered into the customs territory of the United
4 States through evasion, the Commissioner shall con-
5 tinue the investigation and notify the administering
6 authority pending a final determination under sub-
7 section (b)(2)(B).

8 “(3) EFFECT OF AFFIRMATIVE FINAL DETER-
9 MINATION.—If the Commissioner makes a final de-
10 termination in accordance with subsection (b)(2)(B)
11 that covered merchandise was entered into the cus-
12 toms territory of the United States through evasion,
13 the Commissioner shall—

14 “(A) suspend or continue to suspend, as
15 the case may be, the liquidation of each entry
16 of the covered merchandise that is subject to
17 the determination and that enters on or after
18 the date of the determination and, pursuant to
19 the Commissioner’s authority under section
20 504(b), extend or continue to extend, as the
21 case may be, the liquidation of each entry of
22 the covered merchandise that is subject to the
23 determination and that entered prior to the
24 date of the determination;

1 “(B) notify the administering authority of
2 the determination and request that the admin-
3 istering authority—

4 “(i) identify the applicable anti-
5 dumping or countervailing duty assessment
6 rate for the entries for which liquidation is
7 suspended under paragraph (1)(A) or sub-
8 paragraph (A) of this paragraph; or

9 “(ii) if no such assessment rates are
10 available at the time, identify the applica-
11 ble cash deposit rate to be applied to the
12 entries described in subparagraph (A),
13 with the applicable antidumping or coun-
14 tervailing duty assessment rates to be pro-
15 vided as soon as such rates become avail-
16 able;

17 “(C) require the posting of cash deposits
18 and assess duties on each entry of merchandise
19 described in subparagraph (A) in accordance
20 with the instructions received from the admin-
21 istering authority under paragraph (5);

22 “(D) review and reassess the amount of
23 bond or other security the importer is required
24 to post for merchandise described in subpara-

1 graph (A) to ensure the protection of revenue
2 and compliance with the law; and

3 “(E) take such additional enforcement
4 measures as the Commissioner determines ap-
5 propriate, such as—

6 “(i) initiating proceedings under sec-
7 tion 592 or 596;

8 “(ii) implementing, in consultation
9 with the relevant Federal agencies, rule
10 sets or modifications to rules sets for iden-
11 tifying, particularly through the Auto-
12 mated Targeting System and the Auto-
13 mated Commercial Environment, import-
14 ers, other parties, and merchandise that
15 may be associated with evasion;

16 “(iii) requiring, with respect to mer-
17 chandise for which the importer has re-
18 peatedly provided incomplete or erroneous
19 entry summary information in connection
20 with determinations of evasion, the im-
21 porter to submit entry summary docu-
22 mentation and to deposit estimated duties
23 at the time of entry;

24 “(iv) referring the record in whole or
25 in part to U.S. Immigration and Customs

1 Enforcement for civil or criminal investiga-
2 tion; and

3 “(v) transmitting the administrative
4 record to the administering authority for
5 further appropriate proceedings.

6 “(4) EFFECT OF NEGATIVE FINAL DETERMINA-
7 TION.—If the Commissioner makes a final deter-
8 mination in accordance with subsection (b)(2)(B)
9 that covered merchandise was not entered into the
10 customs territory of the United States through eva-
11 sion, the Commissioner shall terminate the suspen-
12 sion of liquidation pursuant to paragraph (1)(A) and
13 refund any cash deposits collected pursuant to para-
14 graph (1)(C) that are in excess of the cash deposit
15 rate that would otherwise have been applicable the
16 merchandise.

17 “(5) COOPERATION OF ADMINISTERING AU-
18 THORITY.—

19 “(A) IN GENERAL.—Upon receiving a noti-
20 fication from the Commissioner under para-
21 graph (3)(B), the administering authority shall
22 promptly provide to the Commissioner the ap-
23 plicable cash deposit rates and antidumping or
24 countervailing duty assessment rates and any
25 necessary liquidation instructions.

1 “(B) SPECIAL RULE FOR CASES IN WHICH
2 THE PRODUCER OR EXPORTER IS UNKNOWN.—
3 If the Commissioner and administering author-
4 ity are unable to determine the producer or ex-
5 porter of the merchandise with respect to which
6 a notification is made under paragraph (3)(B),
7 the administering authority shall identify, as
8 the applicable cash deposit rate or antidumping
9 or countervailing duty assessment rate, the cash
10 deposit or duty (as the case may be) in the
11 highest amount applicable to any producer or
12 exporter, including the ‘all-others’ rate of the
13 merchandise subject to an antidumping order or
14 countervailing duty order under section 736 or
15 706, respectively, or a finding issued under the
16 Antidumping Act, 1921, or any administrative
17 review conducted under section 751.

18 “(d) SPECIAL RULES.—

19 “(1) EFFECT ON OTHER AUTHORITIES.—Nei-
20 ther the initiation of an investigation under sub-
21 section (b)(1) nor a preliminary determination or a
22 final determination under subsection (b)(2) shall af-
23 fect the authority of the Commissioner—

24 “(A) to pursue such other enforcement
25 measures with respect to the evasion of anti-

1 dumping or countervailing duties as the Com-
2 missioner determines necessary, including en-
3 forcement measures described in clauses (i)
4 through (iv) of subsection (c)(3)(E); or

5 “(B) to assess any penalties or collect any
6 applicable duties, taxes, and fees, including pur-
7 suant to section 592.

8 “(2) EFFECT OF DETERMINATIONS ON FRAUD
9 ACTIONS.—Neither a preliminary determination nor
10 a final determination under subsection (b)(2) shall
11 be determinative in a proceeding under section 592.

12 “(3) NEGLIGENCE OR INTENT.—The Commis-
13 sioner shall investigate and make a preliminary de-
14 termination or a final determination under this sec-
15 tion with respect to whether a person has entered
16 covered merchandise into the customs territory of
17 the United States through evasion without regard to
18 whether the person—

19 “(A) intended to violate an antidumping
20 duty order or countervailing duty order under
21 section 736 or 706, respectively, or a finding
22 issued under the Antidumping Act, 1921; or

23 “(B) exercised reasonable care with respect
24 to avoiding a violation of such an order or find-
25 ing.”.

1 (b) TECHNICAL AMENDMENT.—Clause (ii) of section
2 777(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C.
3 1677f(b)(1)(A)) is amended to read as follows:

4 “(ii) to an officer or employee of U.S.
5 Customs and Border Protection who is di-
6 rectly involved in conducting an investiga-
7 tion regarding fraud under this title or
8 claims of evasion under section 516B.”.

9 (c) JUDICIAL REVIEW.—Section 516A(a)(2) of the
10 Tariff Act of 1930 (19 U.S.C. 1516a(a)(2)) is amended—

11 (1) in subparagraph (A)—

12 (A) in clause (i)(III), by striking “or” at
13 the end;

14 (B) in clause (ii), by adding “or” at the
15 end; and

16 (C) by inserting after clause (ii) the fol-
17 lowing:

18 “(iii) the date of publication in the
19 Federal Register of a determination de-
20 scribed in clause (ix) of subparagraph
21 (B),”; and

22 (2) in subparagraph (B), by adding at the end
23 the following new clause:

24 “(ix) A determination by the Commis-
25 sioner responsible for U.S. Customs and

1 Border Protection under section 516B that
2 merchandise has been entered into the cus-
3 toms territory of the United States
4 through evasion.”.

5 (d) FINALITY OF DETERMINATIONS.—Section 514(b)
6 of the Tariff Act of 1930 (19 U.S.C. 1514(b)) is amended
7 by striking “section 303” and all that follows through
8 “which are reviewable” and inserting “section 516B or
9 title VII that are reviewable”.

10 **SEC. 352. APPLICATION TO CANADA AND MEXICO.**

11 Pursuant to article 1902 of the North American Free
12 Trade Agreement and section 408 of the North American
13 Free Trade Agreement Implementation Act (19 U.S.C.
14 3438), the amendments made by this part shall apply with
15 respect to goods from Canada and Mexico.

16 **PART 2—OTHER MATTERS**

17 **SEC. 361. DEFINITIONS.**

18 In this part, the terms “appropriate congressional
19 committees”, “Commissioner”, “covered merchandise”,
20 “enter” and “entry”, and “evade” and “evasion” have the
21 meanings given those terms in section 516B(a) of the Tar-
22 iff Act of 1930 (as added by section 351 of this Act).

1 **SEC. 362. ALLOCATION OF U.S. CUSTOMS AND BORDER**
2 **PROTECTION PERSONNEL.**

3 (a) REASSIGNMENT AND ALLOCATION.—The Com-
4 missioner shall, to the maximum extent possible, ensure
5 that U.S. Customs and Border Protection—

6 (1) employs sufficient personnel who have ex-
7 pertise in, and responsibility for, preventing the
8 entry of covered merchandise into the customs terri-
9 tory of the United States through evasion; and

10 (2) on the basis of risk assessment metrics, as-
11 signs sufficient personnel with primary responsibility
12 for preventing the entry of covered merchandise into
13 the customs territory of the United States through
14 evasion to the ports of entry in the United States at
15 which the Commissioner determines potential eva-
16 sion presents the most substantial threats to the rev-
17 enue of the United States.

18 (b) COMMERCIAL ENFORCEMENT OFFICERS.—Not
19 later than 30 days after the enactment of this Act, the
20 Secretary of Homeland Security, the Commissioner, and
21 the Assistant Secretary for U.S. Immigration and Cus-
22 toms Enforcement shall assess and properly allocate the
23 resources of U.S. Customs and Border Protection and
24 U.S. Immigration and Customs Enforcement—

25 (1) to effectively implement the provisions of,
26 and amendments made by, this Act; and

1 (2) to improve efforts to investigate and combat
2 evasion.

3 **SEC. 363. REGULATIONS.**

4 (a) IN GENERAL.—Not later than 240 days after the
5 date of the enactment of this Act, the Commissioner shall
6 issue regulations to carry out this part and the amend-
7 ments made by title I.

8 (b) COOPERATION BETWEEN U.S. CUSTOMS AND
9 BORDER PROTECTION, U.S. IMMIGRATION AND CUSTOMS
10 ENFORCEMENT, AND DEPARTMENT OF COMMERCE.—Not
11 later than 240 days after the date of the enactment of
12 this Act, the Commissioner, the Assistant Secretary for
13 U.S. Immigration and Customs Enforcement, and the Sec-
14 retary of Commerce shall establish procedures to ensure
15 maximum cooperation and communication between U.S.
16 Customs and Border Protection, U.S. Immigration and
17 Customs Enforcement, and the Department of Commerce
18 in order to quickly, efficiently, and accurately investigate
19 allegations of evasion under section 516B of the Tariff
20 Act of 1930 (as added by section 351 of this Act).

21 **SEC. 364. ANNUAL REPORT ON PREVENTION OF EVASION**
22 **OF ANTIDUMPING AND COUNTERVAILING**
23 **DUTY ORDERS.**

24 (a) IN GENERAL.—Not later than February 28 of
25 each year, beginning in 2015, the Commissioner, in con-

1 sultation with the Secretary of Commerce, shall submit to
2 the appropriate congressional committees a report on the
3 efforts being taken pursuant to section 516B of the Tariff
4 Act of 1930 (as added by section 351 of this Act) to pre-
5 vent the entry of covered merchandise into the customs
6 territory of the United States through evasion.

7 (b) CONTENTS.—Each report required under sub-
8 section (a) shall include—

9 (1) for the fiscal year preceding the submission
10 of the report—

11 (A) the number and a brief description of
12 petitions and referrals received pursuant to sec-
13 tion 516B(b)(1) of the Tariff Act of 1930 (as
14 added by section 351 of this Act);

15 (B) the results of the investigations initi-
16 ated under such section, including any related
17 enforcement actions, and the amount of anti-
18 dumping and countervailing duties collected as
19 a result of those investigations; and

20 (C) to the extent appropriate, a summary
21 of the efforts of U.S. Customs and Border Pro-
22 tection, other than efforts initiated pursuant
23 section 516B of the Tariff Act of 1930 (as
24 added by section 351 of this Act), to prevent
25 the entry of covered merchandise into the cus-

1 toms territory of the United States through
2 evasion; and

3 (2) for the 3 fiscal years preceding the submis-
4 sion of the report, an estimate of—

5 (A) the amount of covered merchandise
6 that entered the customs territory of the United
7 States through evasion; and

8 (B) the amount of duties that could not be
9 collected on such merchandise because the Com-
10 missioner did not have the authority to reliq-
11 uidate the entries of such merchandise.

12 **SEC. 365. GOVERNMENT ACCOUNTABILITY OFFICE REPORT**
13 **ON RELIQUIDATION AUTHORITY.**

14 Not later than 60 days after the date of the enact-
15 ment of this Act, the Comptroller General of the United
16 States shall submit to the appropriate congressional com-
17 mittees, and make available to the public, a report esti-
18 mating the amount of duties that could not be collected
19 on covered merchandise that entered the customs territory
20 of the United States through evasion during fiscal years
21 2011 and 2012 because the Commissioner did not have
22 the authority to reliquidate the entries of such merchan-
23 dise.

1 **Subtitle F—Other Provisions**

2 **SEC. 371. TRADE ENFORCEMENT PRIORITIES.**

3 (a) IN GENERAL.—Chapter 1 of title III of the Trade
4 Act of 1974 (19 U.S.C. 2411 et seq.), as amended by sec-
5 tion 303 of this Act, is amended by adding at the end
6 the following:

7 **“SEC. 312. TRADE ENFORCEMENT PRIORITIES.**

8 “(a) TRADE ENFORCEMENT PRIORITIES, CONSULTA-
9 TIONS AND REPORT.—

10 “(1) TRADE ENFORCEMENT PRIORITIES CON-
11 SULTATIONS.—On or before May 31 of each cal-
12 endar year following the date of enactment of this
13 act, the United States Trade Representative shall
14 consult with the Committee on Finance of the Sen-
15 ate and the Committee on Ways and Means of the
16 House of Representatives with respect to the
17 prioritization of foreign government acts, policies, or
18 practices that raise concerns with respect to obliga-
19 tions under the WTO agreements or other trade
20 agreement of the United States, or otherwise create
21 or maintain barriers to United States goods, serv-
22 ices, or investment.

23 “(2) IDENTIFICATION OF TRADE ENFORCE-
24 MENT PRIORITIES.—In identifying trade enforce-
25 ment priorities, the United States Trade Represent-

1 ative shall focus on those practices the elimination of
2 which is likely to have the most significant potential
3 to increase United States economic growth, and take
4 into account all relevant factors, including—

5 “(A) the economic significance of any po-
6 tential inconsistency between an obligation as-
7 sumed by a foreign government pursuant to a
8 trade agreement to which the United States is
9 a party, and the policies or practices of such
10 foreign government;

11 “(B) the impact of the policies or practices
12 of the foreign government on maintaining and
13 creating United States jobs and productive ca-
14 pacity;

15 “(C) the major barriers and trade dis-
16 torting practices described in the most recent
17 National Trade Estimate required under section
18 181(b);

19 “(D) the major barriers and trade dis-
20 torting practices described in other relevant re-
21 ports addressing international trade and invest-
22 ment barriers prepared by a Federal agency or
23 congressional commission during the 12 months
24 preceding the date of the report under sub-
25 section (a)(2);

1 “(E) a foreign country’s compliance with
2 its obligations under any trade agreements to
3 which both the foreign country and the United
4 States are parties;

5 “(F) the implications of a foreign govern-
6 ment’s procurement plans and policies; and

7 “(G) the international competitive position
8 and export potential of United States products
9 and services.

10 “(2) REPORT ON TRADE ENFORCEMENT PRIOR-
11 ITIES AND ACTIONS TAKEN TO ADDRESS.—On or be-
12 fore July 31 of each calendar year following the date
13 of the enactment of this section, the United States
14 Trade Representative shall report to the Committee
15 on Finance of the Senate and the Committee on
16 Ways and Means of the House of Representatives
17 on—

18 “(A) acts, policies, or practices of a foreign
19 country identified as a priority based on the
20 consultations under paragraph (1) and the cri-
21 teria set out in paragraph (2); and

22 “(B) in each subsequent calendar year, ac-
23 tions taken to address any acts, policies, or
24 practices of a foreign country identified as a
25 priority under paragraph (2)(A) in the imme-

1 diately prior year and, as relevant, any year
2 prior to that.

3 “(b) SEMI-ANNUAL ENFORCEMENT CONSULTA-
4 TIONS.—At the same time as the reporting under para-
5 graph (2), and on or before January 31 of each following
6 year, the United States Trade Representative shall consult
7 with the Committee on Finance of the Senate and the
8 Committee on Ways and Means of the House of Rep-
9 resentatives with respect to the identification,
10 prioritization, and investigation and resolution of foreign
11 acts, policies, or practices of concern.

12 “(1) ACTS, POLICIES, OR PRACTICES OF CON-
13 CERN.—Semi-annual enforcement consultations shall
14 address acts, policies, or practices that raise con-
15 cerns with respect to obligations under the WTO
16 agreements or other trade agreement of the United
17 States, or otherwise create or maintain trade bar-
18 riers, including engagement with relevant trading
19 partners; strategies for addressing concerns; avail-
20 ability and deployment of resources to be used in the
21 investigation or resolution of concerns; the merits of
22 any potential dispute resolution proceeding under
23 the WTO agreements or other trade agreement; or
24 any other aspects of the concerns.

1 “(2) ACTIVE INVESTIGATIONS.—Semi-annual
2 enforcement consultations shall address acts, poli-
3 cies, or practices that the United States Trade Rep-
4 resentative is actively investigating with respect to
5 obligations under the WTO agreements or other
6 trade agreement of the United States, including
7 strategies for addressing concerns raised by the acts,
8 policies, or practices; any relevant timeline; the mer-
9 its of any potential dispute resolution proceeding
10 under the WTO agreements or other trade agree-
11 ment with respect to such acts, policies, or practices;
12 barriers to the advancement of the investigation; or
13 any other aspect of the matters under investigation.

14 “(3) ONGOING ENFORCEMENT ACTIONS.—Semi-
15 annual enforcement consultations shall address all
16 ongoing enforcement actions taken by or against the
17 United States with respect to obligations under the
18 WTO agreements or other trade agreement of the
19 United States, including any relevant timeline; the
20 merits of the dispute; any prospective implementa-
21 tion action; potential implications for any United
22 States law or regulation; potential implications for
23 United States stakeholders, domestic competitors,
24 and exporters; or other issues relating to the action.

1 “(4) ENFORCEMENT RESOURCES.—Semi-annual
2 enforcement consultations shall address the avail-
3 ability and deployment of enforcement resources, re-
4 source constraints on monitoring and enforcement
5 activities, and strategies to address those con-
6 straints, including the use of available resources of
7 other agencies to enhance monitoring and enforce-
8 ment capabilities.

9 “(c) INVESTIGATION AND RESOLUTION.—In the case
10 of any trade enforcement priority identified under sub-
11 section (a)(2), the United States Trade Representative
12 shall, no later than the date of the semi-annual enforce-
13 ment consultations held after the identification of the pri-
14 ority, take appropriate action to address it, including—

15 “(1) engagement with the government(s) of the
16 trading partner(s) in question to resolve concerns
17 raised by the acts, policies, or practices;

18 “(2) initiation of an investigation under section
19 302(b)(1);

20 “(3) initiation of negotiations for a bilateral
21 agreement that provides for resolution of concerns
22 raised by the acts, policies, or practices; or

23 “(4) initiation of dispute resolution proceedings
24 under the World Trade Organization (WTO) agree-

1 ments or other trade agreement of the United
2 States.

3 “(d) ENFORCEMENT NOTIFICATIONS AND CON-
4 SULTATION.—

5 “(1) INITIATION OF ENFORCEMENT ACTION.—

6 The United States Trade Representative shall notify
7 and consult with the Committee on Finance of the
8 Senate and the Committee on Ways and Means of
9 the House of Representatives in advance of initiation
10 of any formal trade dispute by or against the United
11 States taken in regard to an obligation under the
12 WTO agreements or any other trade agreement of
13 the United States. With respect to formal trade dis-
14 putes against the United States, if advance notifica-
15 tion and consultation is not possible, the United
16 States Trade Representative shall notify and consult
17 at the earliest practicable opportunity after initiation
18 of the dispute.

19 “(2) CIRCULATION OF REPORTS.—The United
20 States Trade Representative shall notify and consult
21 with the Committee on Finance of the Senate and
22 the Committee on Ways and Means of the House of
23 Representatives in advance of the announced or an-
24 ticipated circulation of any report of a dispute settle-
25 ment panel or the Appellate Body of the WTO or of

1 a dispute settlement panel under any other trade
2 agreement of the United States in a formal trade
3 dispute by or against the United States.”.

4 (e) CONFORMING AMENDMENT.—The table of con-
5 tents for the Trade Act of 1974 is amended by inserting
6 after the item relating to section 311 the following new
7 item:

“Sec. 312. Trade enforcement priorities.”.

8 **SEC. 372. TRADE MONITORING.**

9 (a) IN GENERAL.—Chapter 1 of title II of the Trade
10 Act of 1974 (19 U.S.C. 2251 et seq.) is amended by add-
11 ing at the end the following:

12 **“SEC. 205. TRADE MONITORING.**

13 **“(a) MONITORING TOOL FOR IMPORTS.—**

14 **“(1) IN GENERAL.—**Not later than 180 days
15 after the date of the enactment of this section, the
16 United States International Trade Commission shall
17 make available on a website of the Commission an
18 import monitoring tool to allow the public access to
19 data on the volume and value of goods imported to
20 the United States for the purpose of assessing
21 whether such data has changed with respect to such
22 goods over a period of time.

23 **“(2) DATA DESCRIBED.—**For purposes of the
24 monitoring tool under paragraph (1), the Commis-
25 sion shall use data compiled by the Department of

1 Commerce and such other Government data as the
2 Commission considers appropriate.

3 “(3) PERIODS OF TIME.—The Commission shall
4 ensure that data accessed through the monitoring
5 tool under paragraph (1) includes data for the most
6 recent quarter for which such data are available and
7 previous quarters as the Commission considers prac-
8 ticable.

9 “(b) MONITORING REPORTS.—

10 “(1) IN GENERAL.—Not later than 270 days
11 after the date of the enactment of this section, and
12 not less frequently than quarterly thereafter, the
13 Secretary of Commerce shall publish on a website of
14 the Department of Commerce, and notify the Com-
15 mittee on Finance of the Senate and the Committee
16 on Ways and Means of the House of Representatives
17 of the availability of, a monitoring report on changes
18 in patterns of the volume and value of trade with re-
19 spect to imports and exports of goods categorized
20 based on the 6-digit subheading number of the goods
21 under the Harmonized Tariff Schedule of the United
22 States during the most recent quarter for which
23 such data are available and previous quarters as the
24 Secretary considers practicable.

1 “(2) REQUESTS FOR COMMENT.—Not later
2 than one year after the date of the enactment of this
3 section, the Secretary of Commerce shall solicit
4 through the Federal Register public comment on the
5 monitoring reports described in paragraph (1).

6 “(c) SUNSET.—The requirements under this section
7 terminate on the date that is seven years after the date
8 of the enactment of this section.”.

9 (b) CLERICAL AMENDMENT.—The table of contents
10 for the Trade Act of 1974 (19 U.S.C. 2101 et seq.) is
11 amended by inserting after the item relating to section
12 304 the following:

“Sec. 205. Trade monitoring.”.

13 **TITLE IV—INVESTING IN**
14 **AMERICAN JOBS**

15 **SEC. 401. BUILD AMERICA BONDS MODIFIED AND MADE**
16 **PERMANENT.**

17 (a) MADE PERMANENT.—Section 54AA(d)(1)(B) of
18 the Internal Revenue Code of 1986 is amended by insert-
19 ing “or during a period beginning on or after the date
20 of the enactment of the Bipartisan Congressional Trade
21 Priorities and Accountability Act of 2015,” after “Janu-
22 ary 1, 2011,”.

23 (b) REDUCTION IN CREDIT PERCENTAGE TO BOND-
24 HOLDERS.—Section 54AA(b) of such Code is amended to
25 read as follows:

1 “(b) AMOUNT OF CREDIT.—

2 “(1) IN GENERAL.—The amount of the credit
3 determined under this subsection with respect to any
4 interest payment date for a build America bond is
5 the applicable percentage of the amount of interest
6 payable by the issuer with respect to such date.

7 “(2) APPLICABLE PERCENTAGE.—For purposes
8 of paragraph (1), the applicable percentage shall be
9 determined under the following table:

“In the case of a bond issued during calendar year:	The applicable percentage is:
2015	32
2016	31
2017	30
2018	29
2019 and thereafter	28”.

10 (c) EXTENSION AND MODIFICATION IN APPLICATION
11 OF PAYMENTS TO ISSUERS.—

12 (1) EXTENSION.—Section 54AA(g) of such
13 Code is amended—

14 (A) by inserting “or during a period begin-
15 ning on or after the date of the enactment of
16 the Bipartisan Congressional Trade Priorities
17 and Accountability Act of 2015,” after “Janu-
18 ary 1, 2011,” and

19 (B) by striking “QUALIFIED BONDS
20 ISSUED BEFORE 2011” in the heading and in-
21 serting “CERTAIN QUALIFIED BONDS”.

1 (2) ADDITIONAL QUALIFIED BONDS.—Section
2 54AA(g) of such Code is amended by adding at the
3 end the following new paragraph:

4 “(3) ADDITIONAL BONDS INCLUDED.—For pur-
5 poses of this subsection, the term ‘qualified bond’ in-
6 cludes any of the following bonds:

7 “(A) SHORT-TERM WORKING CAPITAL.—
8 Any bond issued as part of the an issue if the
9 amounts described in paragraph (2)(A) with re-
10 spect to such issue are to be used for short-
11 term governmental working capital for govern-
12 mental operating expenses, but only if the ma-
13 turity of such bond does not exceed a term of
14 13 months.

15 “(B) PRIVATE ACTIVITY BONDS.—Any pri-
16 vate activity bond.

17 “(C) CURRENT REFUNDING BONDS.—Any
18 bond (or series of bonds) issued to refund a
19 qualified bond described in paragraph (2) if—

20 “(i) the amount of the refunding bond
21 does not exceed the outstanding amount of
22 the refunded bond, and

23 “(ii) the refunded bond is redeemed
24 not later than 90 days after the date of the
25 issuance of the refunding bond.”.

1 (d) EXTENSION OF PAYMENTS TO ISSUERS.—Section
2 6431 of such Code is amended—

3 (1) by inserting “or during a period beginning
4 on or after the date of the enactment of the Bipar-
5 tisan Congressional Trade Priorities and Account-
6 ability Act of 2015,” after “January 1, 2011,” in
7 subsection (a), and

8 (2) by striking “before January 1, 2011” in
9 subsection (f)(1)(B) and inserting “during a par-
10 ticular period”.

11 (e) REDUCTION IN PERCENTAGE OF PAYMENTS TO
12 ISSUERS.—Section 6431(b) of such Code is amended—

13 (1) by striking “The Secretary” and inserting
14 the following:

15 “(1) IN GENERAL.—The Secretary”,

16 (2) by striking “35 percent” and inserting “the
17 applicable percentage”, and

18 (3) by adding at the end the following new
19 paragraph:

20 “(2) APPLICABLE PERCENTAGE.—For purposes
21 of this subsection, the term ‘applicable percentage’
22 means the percentage determined in accordance with
23 the following table:

“In the case of a qualified bond issued during calendar year:	The applicable percentage is:
2015	32
2016	31
2017	30

“In the case of a qualified bond issued during calendar year:	The applicable percentage is:
2018	29
2019 and thereafter	28”.”.

1 (f) PAYMENTS MADE TO ISSUER NOT SUBJECT TO
2 SEQUESTRATION.—Any sequestration order issued under
3 the Balanced Budget and Emergency Deficit Control Act
4 of 1985 after the date of enactment of this section shall
5 not apply to any payment made under section 6431 of the
6 Internal Revenue Code of 1986 with respect to any Build
7 America Bond issued after the date of the enactment of
8 this Act.

9 (g) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to obligations issued on or after
11 the date of the enactment of this Act.

12 **SEC. 402. EXTENSION OF THE ADVANCED ENERGY**
13 **PROJECT CREDIT.**

14 (a) IN GENERAL.—Section 48C(d) of the Internal
15 Revenue Code of 1986 is amended by adding at the end
16 the following new paragraph:

17 “(6) ADDITIONAL 2015 ALLOCATIONS.—

18 “(A) IN GENERAL.—Not later than 180
19 days after the date of the enactment of this
20 paragraph, the Secretary, in consultation with
21 the Secretary of Energy, shall establish a pro-
22 gram to consider and award certifications for
23 qualified investments eligible for credits under

1 this section to qualifying advanced energy
2 project sponsors with respect to applications re-
3 ceived on or after the date of the enactment of
4 this paragraph.

5 “(B) LIMITATION.—The total amount of
6 credits that may be allocated under the pro-
7 gram described in subparagraph (A) shall not
8 exceed the 2015 allocation amount reduced by
9 so much of the 2015 allocation amount as is
10 taken into account as an increase in the limita-
11 tion described in paragraph (1)(B).

12 “(C) APPLICATION OF CERTAIN RULES.—
13 Rules similar to the rules of paragraphs (2),
14 (3), (4), and (5) shall apply for purposes of the
15 program described in subparagraph (A), except
16 that—

17 “(i) CERTIFICATION.—Applicants
18 shall have 2 years from the date that the
19 Secretary establishes such program to sub-
20 mit applications.

21 “(ii) SELECTION CRITERIA.—In deter-
22 mining which qualifying advanced energy
23 projects to certify under such program, the
24 Secretary, in consultation with the Sec-
25 retary of Energy, shall give the highest

1 priority to projects which manufacture
2 (other than assembly of components) prop-
3 erty described in a subclause of subsection
4 (c)(1)(A)(i) (or components thereof).

5 “(iii) REVIEW AND REDISTRIBU-
6 TION.—The Secretary shall conduct a sep-
7 arate review and redistribution under para-
8 graph (5) with respect to such program
9 not later than 4 years after the date of the
10 enactment of this paragraph.

11 “(D) 2015 ALLOCATION AMOUNT.—For
12 purposes of this subsection, the term ‘2015 allo-
13 cation amount’ means \$5,000,000,000.”.

14 (b) PORTION OF 2015 ALLOCATION ALLOCATED TO-
15 WARD PENDING APPLICATIONS UNDER ORIGINAL PRO-
16 GRAM.—Subparagraph (B) of section 48C(d)(1) of such
17 Code is amended by inserting “(increased by so much of
18 the 2015 allocation amount (not in excess of
19 \$1,500,000,000) as the Secretary determines necessary to
20 make allocations to qualified investments with respect to
21 which qualifying applications were submitted before the
22 date of the enactment of paragraph (6))” after
23 “\$2,300,000,000”.

1 (c) CONFORMING AMENDMENT.—Paragraph (2) of
2 section 1324(b) of title 31, United States Code, is amend-
3 ed by inserting “48C(d)(6)(E),” after “36B,”.

