

115TH CONGRESS
1ST SESSION

H. R. 3233

To promote fair trade, allow for greater participation in trade enforcement,
and improve accountability and transparency in trade matters.

IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2017

Mr. MCKINLEY (for himself and Ms. KAPTUR) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Oversight and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To promote fair trade, allow for greater participation in trade enforcement, and improve accountability and transparency in trade matters.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fair Trade Accessi-
5 bility and Accountability Act of 2017”.

1 **SEC. 2. ASSISTANCE TO SMALL FIRMS TO FILE PETITIONS**
2 **FOR COUNTERVAILING DUTY INVESTIGA-**
3 **TIONS AND ANTIDUMPING DUTY INVESTIGA-**
4 **TIONS UNDER THE TARIFF ACT OF 1930.**

5 (a) IN GENERAL.—The Secretary of Commerce, act-
6 ing through the Under Secretary for International Trade,
7 shall provide financial assistance to small firms to assist
8 such firms to prepare and file petitions (other than those
9 petitions which, in the opinion of the Secretary, are frivo-
10 lous) to seek to obtain the remedies and benefits available
11 under title VII of the Tariff Act of 1930 (19 U.S.C. 1671
12 et seq.; relating to the imposition of countervailing duties
13 and antidumping duties).

14 (b) APPLICATION AND AFFIRMATIVE DETERMINA-
15 TION WITH RESPECT TO PETITION.—The Secretary of
16 Commerce may provide assistance under subsection (a) to
17 a small firm if—

18 (1) the firm submits to the Secretary an appli-
19 cation for such assistance at such time and in such
20 form as the Secretary may require; and

21 (2)(A) in the case of assistance relating to a pe-
22 tition filed under section 702(b) of the Tariff Act of
23 1930 (19 U.S.C. 1671a(b)), the administering au-
24 thority makes an affirmative determination with re-
25 spect to the petition under section 702(c)(2) of such
26 section; and

1 (B) in the case of assistance relating to a peti-
2 tion filed under section 732(b) of the Tariff Act of
3 1930 (19 U.S.C. 1673a(b)), the administering au-
4 thority makes an affirmative determination with re-
5 spect to the petition under section 732(c)(2) of such
6 section.

7 (c) EVALUATION.—The Secretary of Commerce shall
8 review an application for assistance under subsection (a)
9 submitted by a small firm based on the ability-to-pay of
10 the firm and the economic impact that the firm has in
11 its local community.

12 (d) AMOUNT OF ASSISTANCE.—The amount of assist-
13 ance under subsection (a) to a small firm may not ex-
14 ceed—

15 (1) 75 percent of the costs relating to the filing
16 of a petition under section 702(b) or 732(b) of the
17 Tariff Act of 1930 (as the case may be); and

18 (2) the total costs associated with any prelimi-
19 nary determinations or final determinations to which
20 the petition relates under subtitle A or B of title VII
21 of the Tariff Act of 1930 (as the case may be).

22 (e) DEFINITIONS.—In this section:

23 (1) ADMINISTERING AUTHORITY.—The term
24 “administering authority” has the meaning given

1 such term in section 771(1) of the Tariff Act of
2 1930 (19 U.S.C. 1677(1)).

3 (2) SMALL FIRM.—The term “small firm”
4 means a firm that—

5 (A) has average annual receipts of
6 \$40,000,000 or less; or

7 (B) employs 1,500 or fewer individuals.

8 **SEC. 3. MODIFICATION OF DETERMINATION OF INDUSTRY**
9 **SUPPORT FOR PETITION DETERMINATIONS**
10 **UNDER COUNTERVAILING DUTY INVESTIGA-**
11 **TIONS AND ANTIDUMPING DUTY INVESTIGA-**
12 **TIONS UNDER THE TARIFF ACT OF 1930.**

13 (a) COUNTERVAILING DUTY INVESTIGATIONS.—Sec-
14 tion 702(c)(4) of the Tariff Act of 1930 (19 U.S.C.
15 1671a(c)(4)) is amended—

16 (1) in subparagraph (A)—

17 (A) by striking “, if” and all that follows
18 through “(i) the” and inserting “, if the”;

19 (B) by striking “25 percent” and inserting
20 “10 percent”;

21 (C) by striking “, and” and inserting a pe-
22 riod; and

23 (D) by striking clause (ii);

24 (2) by striking subparagraph (D); and

1 (3) by redesignating subparagraph (E) as sub-
2 paragraph (D).

3 (b) ANTIDUMPING DUTY INVESTIGATIONS.—Section
4 732(c)(4) of the Tariff Act of 1930 (19 U.S.C.
5 1673a(c)(4)) is amended—

6 (1) in subparagraph (A)—

7 (A) by striking “, if” and all that follows
8 through “(i) the” and inserting “, if the”;

9 (B) by striking “, and” and inserting a pe-
10 riod; and

11 (C) by striking clause (ii);

12 (2) by striking subparagraph (D); and

13 (3) by redesignating subparagraph (E) as sub-
14 paragraph (D).

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section take effect on the date of the enactment of
17 this Act and apply with respect to countervailing duty in-
18 vestigations under subtitle A of title VII of the Tariff Act
19 of 1930 and antidumping duty investigations under sub-
20 title B of title VII of the Tariff Act of 1930 that are initi-
21 ated on or after the date that is 90 days after such date
22 of enactment.

1 **SEC. 4. AUTHORITY OF ITC TO ISSUE TRADE ENFORCE-**
2 **MENT ADVISORY OPINIONS.**

3 Section 332 of the Tariff Act of 1930 (19 U.S.C.
4 1332) is amended by adding at the end the following:

5 “(h) TRADE ENFORCEMENT ADVISORY OPINIONS.—

6 “(1) IN GENERAL.—A United States business
7 enterprise may file a detailed petition with the ap-
8 propriate congressional committees for purposes of
9 requesting the Commission to determine whether or
10 not a foreign country has violated its obligations
11 under any trade agreement to which the United
12 States is a party with respect to trade in goods or
13 services of an industry in which the United States
14 business enterprise is located.

15 “(2) REVIEW BY COMMITTEES.—The appro-
16 priate congressional committees shall—

17 “(A) review a petition filed under para-
18 graph (1); and

19 “(B) upon agreement among the chairs
20 and ranking members of such committees, refer
21 the petition to the Commission.

22 “(3) REVIEW BY COMMISSION.—The Commis-
23 sion shall review each petition that is referred to the
24 Commission by the appropriate congressional com-
25 mittees under paragraph (2)(B) to determine wheth-
26 er or not there is a reasonable basis to conclude that

1 a violation described the petition occurred. The
2 Commission shall provide opportunity for comment
3 by the foreign government involved and other stake-
4 holders that are invited to comment by the Commis-
5 sion.

6 “(4) ADVISORY OPINION.—Not later than 120
7 days after the date on which a petition is referred
8 to the Commission under paragraph (2)(B), the
9 Commission shall issue an advisory opinion that con-
10 tains a determination of the Commission as to
11 whether or not there is a reasonable basis to con-
12 clude that a violation described in the petition oc-
13 curred. The Commission shall make available to the
14 public all materials submitted to the Commission re-
15 lating to the petition.

16 “(5) DEFINITIONS.—In this subsection:

17 “(A) APPROPRIATE CONGRESSIONAL COM-
18 MITTEES.—The term ‘appropriate congressional
19 committees’ means the Committee on Ways and
20 Means of the House of Representatives and the
21 Committee on Finance of the Senate.

22 “(B) COMMISSION.—The term ‘Commis-
23 sion’ means the United States International
24 Trade Commission.

1 “(C) UNITED STATES BUSINESS ENTER-
2 PRISE.—The term ‘United States business en-
3 terprise’ means an entity organized under the
4 laws of the United States or of any jurisdiction
5 within the United States, including a foreign
6 branch of such an entity.”.

7 **SEC. 5. SENSE OF CONGRESS ON STATUS OF THE PEOPLE’S**
8 **REPUBLIC OF CHINA AS A NONMARKET**
9 **ECONOMY COUNTRY.**

10 It is the sense of Congress that—

11 (1) the status of the People’s Republic of China
12 as a nonmarket economy country should remain in
13 effect until the Government of the People’s Republic
14 of China demonstrates that it meets all of the cri-
15 teria for treatment as a market economy as set forth
16 in section 771(18)(B) of the Tariff Act of 1930 (19
17 U.S.C. 1677(18)(B)); and

18 (2) the President should provide for the full
19 and effective application of United States anti-
20 dumping and countervailing duty laws against the
21 People’s Republic of China and all other nonmarket
22 economy countries until such time as such country
23 meets all of the criteria for treatment as a market
24 economy country as set forth in section 771(18)(B)
25 of the Tariff Act of 1930.

1 **SEC. 6. MADE IN AMERICA GSA SCHEDULE.**

2 (a) MADE IN AMERICA DESCRIPTION REQUIRE-
3 MENT.—

4 (1) IN GENERAL.—Any good listed on a Federal
5 supply schedule of the General Services Administra-
6 tion that is described as made, produced, or manu-
7 factured in America or some other similar descrip-
8 tion that indicates the good was made, produced, or
9 manufactured in the United States is required to
10 have all or virtually all of the good and the compo-
11 nent parts of the good made, produced, or manufac-
12 tured, as applicable, and assembled, if applicable, in
13 the United States.

14 (2) ENFORCEMENT.—The Administrator of
15 General Services shall enforce the requirement de-
16 scribed under paragraph (1) using the Made in USA
17 Standard by the Federal Trade Commission to de-
18 fine “all or virtually all”.

19 (b) PENALTY FOR NONCOMPLIANCE.—

20 (1) FIRST-TIME OFFENDER.—The supplier of
21 any good found not in compliance with the require-
22 ment described under subsection (a) is subject to a
23 civil penalty of \$100,000 for each such good not in
24 compliance.

25 (2) SUBSEQUENT OFFENSE.—The supplier of
26 any good found not in compliance with the require-

1 ment described under subsection (a) who has pre-
2 viously been found not in compliance and fined
3 under paragraph (1)—

4 (A) is subject to a civil penalty of
5 \$300,000 for each such good not in compliance;
6 and

7 (B) shall be permanently debarred from
8 listing any good on a Federal supply schedule.

9 (c) TIP LINE.—

10 (1) IN GENERAL.—Not later than 90 days after
11 the date of the enactment of this Act, the Adminis-
12 trator of General Services shall establish a tip line
13 that allows an individual to report any violation of
14 subsection (a).

15 (2) REWARD.—Any tip submitted by an indi-
16 vidual that, in the determination of the Adminis-
17 trator, led to the discovery of a violation of sub-
18 section (a), shall entitle such individual to 75 per-
19 cent of any fine imposed under subsection (b). The
20 Administrator shall establish a process to determine
21 distribution under this paragraph.

22 (d) NOTIFICATION REQUIRED.—Not later than 180
23 days after the date of the enactment of this Act, the Ad-
24 ministrator of General Services shall notify each supplier

1 of a good listed on a Federal supply schedule of the re-
2 quirements of this Act.

3 (e) EFFECTIVE DATE; APPLICABILITY.—Except as
4 provided in subsections (c)(1) and (d), this section shall
5 take effect 90 days after the date of the enactment of this
6 Act and shall apply with respect to any contract entered
7 into after the date of the enactment of this Act that is
8 related to posting a good on a Federal supply schedule.

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