

117TH CONGRESS
1ST SESSION

S. 2950

To combat illegal deforestation by prohibiting the importation of products made wholly or in part of certain commodities produced on land undergoing illegal deforestation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 6, 2021

Mr. SCHATZ (for himself, Mr. MURPHY, Mr. WHITEHOUSE, Mr. HEINRICH, Mr. BOOKER, Mr. MERKLEY, Mr. COONS, and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To combat illegal deforestation by prohibiting the importation of products made wholly or in part of certain commodities produced on land undergoing illegal deforestation, and for other purposes.

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 “Fostering Overseas
5 Rule of law and Environmentally Sound Trade Act of
6 2021” or the “FOREST Act of 2021”.

1 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

2 (a) FINDINGS.—Congress makes the following find-
3 ings:

4 (1) According to the Food and Agriculture Or-
5 ganization of the United Nations, 31 percent of land
6 on earth is covered in forests, but that area is rap-
7 idly decreasing. An estimated 1,600,000 square
8 miles of forest has been converted to other land uses
9 since 1990, with 42,500 square miles converted an-
10 nually since 2010. Since the early 2000s, $\frac{2}{3}$ of glob-
11 al forest cover loss has occurred in the tropics and
12 subtropics.

13 (2) The expansion of commercial agriculture
14 into tropical forests is the largest driver of forest
15 conversion, led by cattle ranching and the cultivation
16 of soy and palm oil. An estimated 69 percent of such
17 conversion between 2013 and 2019 was carried out
18 in contravention of the laws of the country in which
19 the conversion occurred.

20 (3) Such illegal deforestation results in the
21 emission of more than 2.7 gigatons of carbon dioxide
22 equivalent per year, more than the entire annual fos-
23 sil fuel emissions of India in 2018.

24 (4) Limiting global temperatures below 1.5 de-
25 grees Celsius above preindustrialized levels requires
26 rapid and significant reductions in deforestation

1 globally. Cost-effective greenhouse gas emission miti-
 2 gation from forests and land use can provide roughly
 3 $\frac{1}{3}$ of the mitigation required by 2030 to stay below
 4 2 degrees Celsius.

5 (5) Forests contain most of the world's terres-
 6 trial biodiversity, providing habitats for 80 percent
 7 of amphibian species, 75 percent of bird species, 68
 8 percent of mammal species, and 60,000 different
 9 species of trees.

10 (6) Forests are also an important source of live-
 11 lihoods, food, and fuel, with more than
 12 1,600,000,000 people depending directly on forests
 13 for their livelihoods.

14 (7) The Intergovernmental Science-Policy Plat-
 15 form on Biodiversity and Ecosystem Services found
 16 in 2019 that the rate of global species extinction is
 17 accelerating and is now tens to hundreds of times
 18 higher than the average rate over the last
 19 10,000,000 years, threatening the loss of 1,000,000
 20 species, and land-use change is the direct driver with
 21 the largest relative impact on terrestrial ecosystems.

22 (8) Deforestation in many countries is closely
 23 associated with violations of the rights of indigenous
 24 peoples and local communities and with the exploi-
 25 tation of workers, including through the use forced

1 labor and child labor, and in many cases is enabled
2 by corruption, criminality, and violence against indi-
3 viduals defending their land rights and environment.

4 (9) According to the United Nations High Com-
5 missioner for Human Rights, individuals defending
6 the rights of communities and indigenous peoples to
7 their traditional lands and environment are particu-
8 larly vulnerable to threats and violence and ac-
9 counted for roughly half of the killings of human
10 rights defenders documented in 2019.

11 (10) Congress has taken a number of steps to
12 address the trade in illegal timber to protect legiti-
13 mate forestry businesses and reduce illegal logging
14 globally, such as, in section 8204 of the Food, Con-
15 servation, and Energy Act of 2008 (Public Law
16 110–246; 122 Stat. 2052), amending the Lacey Act
17 Amendments of 1981 (16 U.S.C. 3371 et seq.) to
18 prohibit the importation of illegal plant products, in-
19 cluding such products made from illegally logged
20 wood.

21 (11) As with illegal timber, agricultural com-
22 modities produced on illegally deforested land enter
23 international markets, including the United States,
24 and compete with commodities produced legally.

1 (12) The United States is a significant market
2 for products made wholly or in part of commodities
3 such as palm oil, cattle, cocoa, and rubber at risk of
4 being produced on illegally deforested land. For ex-
5 ample, in 2020, the United States imported—

6 (A) processed cowhides and beef products
7 valued at more than \$500,000,000 from Brazil,
8 where cattle ranching is the largest driver of
9 deforestation in the Amazon forest and other
10 biomes, and an estimated 95 percent of all de-
11 forestation was not in full compliance with ap-
12 plicable laws; and

13 (B) crude palm oil and palm kernel oil val-
14 ued at more than \$880,000,000 and
15 oleochemicals commonly derived from palm oils
16 valued at more than \$390,000,000, from Indo-
17 nesia, where the expansion of palm oil planta-
18 tions is the largest driver of deforestation, and
19 government audits of the sector in recent years
20 have indicated widespread noncompliance with
21 applicable laws.

22 (13) The lack of traceability in the supply
23 chains for such commodities and the absence of im-
24 porter due diligence requirements increases the risk
25 that United States trade is associated with illegal

1 deforestation and human rights abuses, preventing
2 United States consumers from knowing where or
3 how the goods they purchase were produced and
4 putting companies that ensure legal sourcing at a
5 competitive disadvantage.

6 (b) SENSE OF CONGRESS.—It is the sense of Con-
7 gress that the United States must do more to address ille-
8 gal deforestation from agricultural commodities, includ-
9 ing—

10 (1) avoiding trade that incentivizes foreign gov-
11 ernments to allow illegal deforestation;

12 (2) assisting foreign governments in eliminating
13 illegal deforestation and limiting all deforestation to
14 the extent practicable;

15 (3) requiring that goods entering the United
16 States market be subject to requirements, including
17 the necessary supply chain traceability, to reduce the
18 risk of association with illegal deforestation;

19 (4) preventing the United States financial sys-
20 tem from being used to launder proceeds from illegal
21 deforestation; and

22 (5) providing incentives to suppliers of the Fed-
23 eral Government to adopt and implement policies to
24 eliminate goods produced on or from deforested land
25 from their supply chains.

1 **SEC. 3. PROHIBITION ON IMPORTATION OF COMMODITIES**
 2 **PRODUCED ON ILLEGALLY DEFORESTED**
 3 **LAND AND PRODUCTS MADE FROM SUCH**
 4 **COMMODITIES.**

5 (a) IN GENERAL.—The Tariff Act of 1930 is amend-
 6 ed by inserting after section 527 (19 U.S.C. 1527) the
 7 following:

8 **“SEC. 527A. PROHIBITION ON IMPORTATION OF PRODUCTS**
 9 **MADE WHOLLY OR IN PART OF COMMODITIES**
 10 **PRODUCED ON ILLEGALLY DEFORESTED**
 11 **LAND.**

12 “(a) IN GENERAL.—It shall be unlawful for any per-
 13 son to import any product made wholly or in part of a
 14 covered commodity produced from land that undergoes il-
 15 legal deforestation on or after the date of the enactment
 16 of the FOREST Act of 2021.

17 “(b) IMPORT DECLARATIONS.—

18 “(1) IN GENERAL.—On and after the date that
 19 is one year after the date of the enactment of the
 20 FOREST Act of 2021, and subject to paragraph
 21 (2), a person may not import a covered product un-
 22 less the person files upon entry a declaration stating
 23 that the person has exercised reasonable care to as-
 24 sess and mitigate the risks that any covered com-
 25modity used to make the covered product was pro-

duced from land subject to illegal deforestation on or after such date of enactment.

“(2) COVERED COMMODITIES FROM COUNTRIES UNDER AN ACTION PLAN.—On and after the date that is one year after an action plan applicable to a foreign country is finalized under subsection (d)(2), a person may not import a covered product containing any covered commodity produced in the country and identified in the action plan unless the person files upon entry a declaration that includes sufficient information to show—

“(A)(i) the supply chain and the point of origin of the covered commodity; and

“(ii) steps taken to assess and mitigate the risks that the point of origin was subject to illegal deforestation on or after the date of the enactment of the FOREST Act of 2021; or

“(B)(i) all possible points of origin that could have contributed to the supply chain of the covered commodity, if mixing or points of aggregation exist within the supply chain; and

“(ii) steps taken to assess and mitigate the risks that any possible points of origin were subject to illegal deforestation on or after such date of enactment.

1 “(3) TREATMENT OF PRODUCTS SUBJECT TO
2 MULTIPLE IMPORT DECLARATION REQUIREMENTS.—

3 In the case of a product for which an import dec-
4 laration is required by this subsection and section
5 3(f) of the Lacey Act Amendments of 1981 (16
6 U.S.C. 3372(f)), U.S. Customs and Border Protec-
7 tion and the Animal and Plant Health Inspection
8 Service shall coordinate to limit the administrative
9 burden, to the extent practicable, for importers.

10 “(4) GUIDANCE.—Not later than 90 days after
11 the date of the FOREST Act of 2021, and as appro-
12 priate thereafter, the Commissioner of U.S. Customs
13 and Border Protection (in this section referred to as
14 the ‘Commissioner’)—

15 “(A) shall publish guidance on what con-
16 stitutes reasonable care under paragraph (1)
17 and sufficient information under paragraph (2),
18 which may include guidance with respect to spe-
19 cific commodities, as appropriate; and

20 “(B) may, as appropriate, issue guidance
21 about the potential role of third-party certifi-
22 cations assisting importers with meeting the re-
23 quirements of this section.

24 “(c) LISTS OF COVERED COMMODITIES AND COV-
25 ERED PRODUCTS.—

1 “(1) INITIAL LISTS.—Not later than 30 days
 2 after the date of the enactment of the FOREST Act
 3 of 2021, the United States Trade Representative (in
 4 this section referred to as the ‘Trade Representa-
 5 tive’) shall publish the following:

6 “(A) An initial list made up of the fol-
 7 lowing commodities (in this section referred to
 8 as ‘covered commodities’):

9 “(i) Palm oil.

10 “(ii) Soybeans.

11 “(iii) Cocoa.

12 “(iv) Cattle.

13 “(v) Rubber.

14 “(vi) Wood pulp.

15 “(B) An initial list made up of the fol-
 16 lowing products made wholly or in part of a
 17 covered commodity (in this section referred to
 18 as ‘covered products’):

19 “(i) Palm oil or palm oil products
 20 classifiable under any of the following
 21 headings or subheadings of the HTS:

“1511	2905.17.00	3823.11.00
1513.21.00	2905.45.00	3823.12.00
1513.29.00	2915.70.01	3823.19
2306.60.00	2915.90	3823.70.

1 “(ii) Soybeans or soybean products
 2 classifiable under heading 1201 or 1507 or
 3 subheading 2304.00.00 of the HTS.

4 “(iii) Cocoa or cocoa products classifi-
 5 able under heading 1803 or 1806 or sub-
 6 heading 1801.00.00, 1802.00.00,
 7 1804.00.00, or 1805.00.00 of the HTS.

8 “(iv) Cattle or cattle products classifi-
 9 able under any of the following headings or
 10 subheadings of the HTS:

“0201	0206.21.00	1602.50
0202	0206.22.00	4104
0206.10.00	0206.29.00	4107.

11 “(v) Rubber or rubber products classi-
 12 fiable under heading 4001 or 4011 of the
 13 HTS.

14 “(vi) Pulp or pulp products classifi-
 15 able under any of the following headings or
 16 subheadings of the HTS:

“4703	4804	4818
4801.00.01	4805	4819
4802	4810	4820
4803.00	4811	4823.

17 “(2) REVIEWS AND UPDATES.—

18 “(A) IN GENERAL.—Not less frequently
 19 than annually, the Trade Representative shall—

20 “(i) review the list of covered com-
 21 modities published under subparagraph

1 (A) of paragraph (1) and the list of cov-
2 ered products published under subpara-
3 graph (B) of that paragraph to assess
4 whether covered commodities or covered
5 products, as the case may be, should be
6 added to or removed from the lists to en-
7 sure that the scope of the lists is sufficient
8 to increasingly deter illegal deforestation
9 and to ensure that no material amount of
10 a commodity produced from illegally
11 deforested land enters the United States;
12 and

13 “(ii) publish updated lists based on
14 that review.

15 “(B) EFFECT ON IMPORT DECLARA-
16 TIONS.—Any addition under subparagraph (A)
17 to the list of covered products under paragraph
18 (1)(B) shall be subject to the declaration re-
19 quirement under subsection (b) on and after the
20 date that is one year after the updated list in-
21 cluding the addition is published.

22 “(3) SOLICITATION OF INPUT.—In updating the
23 lists under paragraph (1) as required by paragraph
24 (2), the Trade Representative shall—

1 “(A) consult with the Secretary of State
2 and the Administrator of the United States
3 Agency for International Development; and

4 “(B) coordinate and solicit relevant infor-
5 mation from—

6 “(i) the interagency working group es-
7 tablished under subsection (f);

8 “(ii) the advisory committee estab-
9 lished under subsection (g);

10 “(iii) other Federal, State, and local
11 agencies in the United States; and

12 “(iv) the public.

13 “(d) ACTION PLANS FOR COUNTRIES WITHOUT ADE-
14 QUATE AND EFFECTIVE PROTECTION AGAINST ILLEGAL
15 DEFORESTATION.—

16 “(1) IDENTIFICATION OF COUNTRIES.—

17 “(A) IN GENERAL.—Not later than 180
18 days after the date of the enactment of the
19 FOREST Act of 2021, the Trade Representa-
20 tive shall—

21 “(i) identify foreign countries without
22 adequate and effective protection against
23 illegal deforestation caused by the produc-
24 tion of commodities likely to enter the
25 United States; and

1 “(ii) make available to the public—

2 “(I) a list of the countries identi-
3 fied under clause (i); and

4 “(II) data and analysis related to
5 the considerations described in sub-
6 paragraph (B).

7 “(B) CONSIDERATIONS.—In identifying a
8 foreign country under subparagraph (A), the
9 Trade Representative shall consider—

10 “(i) trends of deforestation and illegal
11 deforestation in that country;

12 “(ii) policies and practices of the gov-
13 ernment of the country that deny adequate
14 and effective enforcement against illegal
15 deforestation;

16 “(iii) trends in the capacity and effec-
17 tiveness of enforcement against illegal de-
18 forestation by the country; and

19 “(iv) the incidence of violence against,
20 and other violations of the rights of, indig-
21 enous peoples, local residents, and environ-
22 mental and human rights defenders in the
23 country in connection with illegal deforest-
24 ation.

1 “(C) REASSESSMENT.—Not less frequently
2 than every 2 years, the Trade Representative
3 shall assess whether additional foreign countries
4 should be identified under subparagraph (A).

5 “(2) ACTION PLANS.—

6 “(A) IN GENERAL.—Not later than 3 years
7 after the date of the enactment of the FOREST
8 Act of 2021, the Trade Representative shall fi-
9 nalize an action plan with respect to each for-
10 eign country identified under paragraph (1).

11 “(B) FINALITY.—An action plan developed
12 under subparagraph (A) shall be considered
13 final for the purposes of subsection (b)(2) on
14 the date on which the action plan is posted on
15 a publicly accessible internet website of the Of-
16 fice of the United States Trade Representative.

17 “(C) INVOLVEMENT OF FOREIGN COUNTRY
18 AND PUBLIC.—The Trade Representative
19 shall—

20 “(i) seek to involve each foreign coun-
21 try for which the Trade Representative de-
22 velops an action plan under subparagraph
23 (A) in the development of the action plan
24 for that foreign country; and

1 “(ii) release a draft of each action
2 plan for public review and comment before
3 finalizing the action plan.

4 “(D) GOALS OF ACTION PLANS.—The
5 Trade Representative shall design an action
6 plan developed under subparagraph (A) with re-
7 spect to a foreign country to achieve—

8 “(i) new laws, rules, enforcement pro-
9 cedures, or agreements to ensure that ille-
10 gal deforestation is no longer occurring in
11 the country;

12 “(ii) sufficient capacity to enforce rel-
13 evant laws;

14 “(iii) processes to remedy or adju-
15 dicate previous illegal deforestation activi-
16 ties;

17 “(iv) comprehensive monitoring and
18 data sharing related to deforestation and
19 potential impacts to other ecosystems;

20 “(v) transparency and accessibility of
21 information with respect to land tenure
22 and land-use decisions;

23 “(vi) traceability, transparency, and
24 data sharing for commodity supply chains;
25 and

1 “(vii) in the case of a country that is
 2 a party to the decision of the 21st Con-
 3 ference of Parties of the United Nations
 4 Framework Convention on Climate Change
 5 adopted in Paris December 12, 2015 (com-
 6 monly known as the ‘Paris Agreement’),
 7 the incorporation of—

8 “(I) forest protection into the
 9 country’s nationally determined con-
 10 tribution under the Paris Agreement;
 11 and

12 “(II) deforestation into the coun-
 13 try’s greenhouse gas reporting as re-
 14 quired by the Paris Agreement.

15 “(E) BENCHMARKS.—

16 “(i) IN GENERAL.—The Trade Rep-
 17 resentative shall include in each action
 18 plan developed under subparagraph (A) in-
 19 termediate and final benchmarks described
 20 in clause (ii) and a timeline for achieving
 21 those benchmarks.

22 “(ii) BENCHMARKS DESCRIBED.—
 23 Benchmarks described in this clause may
 24 be such legislative, institutional, enforce-
 25 ment, or other actions as the Trade Rep-

1 representative determines to be necessary to
 2 demonstrate that the foreign country has
 3 achieved the goals described in subpara-
 4 graph (D).

5 “(F) IDENTIFICATION OF COVERED COM-
 6 MODITIES.—The Trade Representative shall
 7 identify in the action plan developed under sub-
 8 paragraph (A) with respect to a foreign country
 9 the specific covered commodities at risk of
 10 being produced on illegally deforested land in
 11 that country that shall be subject to the dec-
 12 laration requirement under subsection (b)(2).

13 “(3) PRESIDENTIAL ACTION AUTHORIZED.—On
 14 and after the date on which an action plan released
 15 to the public under paragraph (2)(A) with respect to
 16 a foreign country has been in place for one year, if
 17 the President determines that the country has not
 18 substantially complied with the benchmarks in the
 19 action plan, the President may take appropriate ac-
 20 tion with respect to the country.

21 “(4) PETITIONS FOR DETERMINATION OF COM-
 22 PLIANCE.—

23 “(A) IN GENERAL.—A foreign country to
 24 which an action plan developed under para-
 25 graph (2)(A) applies may petition the Trade

1 Representative to determine that the country
 2 has achieved all benchmarks in the action plan.

3 “(B) DETERMINATION OF ADEQUACY AND
 4 EFFECTIVENESS OF PROTECTION.—

5 “(i) IN GENERAL.—If the Trade Rep-
 6 resentative determines under subparagraph
 7 (A) that a foreign country to which an ac-
 8 tion plan developed under paragraph
 9 (2)(A) applies has achieved all benchmarks
 10 in the action plan, the Trade Representa-
 11 tive shall determine whether that country,
 12 after achieving those benchmarks, provides
 13 adequate and effective protection against
 14 illegal deforestation.

15 “(ii) COUNTRIES THAT FAIL TO PRO-
 16 VIDE ADEQUATE AND EFFECTIVE PROTEC-
 17 TION AGAINST ILLEGAL DEFOREST-
 18 ATION.—If the Trade Representative deter-
 19 mines under clause (i) that a foreign coun-
 20 try described in that clause continues to
 21 fail to provide adequate and effective pro-
 22 tection against illegal deforestation, the
 23 Trade Representative shall develop a new
 24 action plan under paragraph (2)(A) with
 25 respect to the country.

1 “(iii) COUNTRIES THAT PROVIDE ADE-
 2 QUATE AND EFFECTIVE PROTECTION
 3 AGAINST ILLEGAL DEFORESTATION.—If
 4 the Trade Representative determines under
 5 clause (i) that a foreign country described
 6 in that clause provides adequate and effec-
 7 tive protection against illegal deforestation,
 8 the action plan developed under paragraph
 9 (2)(A) with respect to the country shall
 10 terminate.

11 “(5) CONSULTATIONS.—In identifying foreign
 12 countries under paragraph (1), developing action
 13 plans under paragraph (2), and making determina-
 14 tions under paragraph (4), the Trade Representative
 15 shall—

16 “(A) consult with the Secretary of State
 17 and the Administrator of the United States
 18 Agency for International Development; and

19 “(B) coordinate and solicit relevant infor-
 20 mation from—

21 “(i) the interagency working group es-
 22 tablished under subsection (f);

23 “(ii) the advisory committee estab-
 24 lished under subsection (g);

25 “(iii) relevant committees of Congress;

1 “(iv) other Federal, State, or local
2 agencies in the United States;

3 “(v) civil society, indigenous peoples,
4 and local communities in countries that
5 produce covered commodities and covered
6 products; and

7 “(vi) the public.

8 “(e) ENFORCEMENT.—

9 “(1) ADMINISTRATION.—

10 “(A) IN GENERAL.—The provisions of this
11 section and any regulations issued under this
12 section shall be enforced, as appropriate, by the
13 Commissioner, the Secretary of Agriculture, the
14 Secretary of the Interior, and the Attorney
15 General.

16 “(B) AUDITS.—The Administrator of the
17 Animal and Plant Health Inspection Service, in
18 collaboration with the heads of other Federal
19 agencies, shall conduct random audits of im-
20 porters filing declarations under subsection
21 (b)(1) to ensure such importers are retaining
22 the supporting documentation demonstrating
23 reasonable care was exercised as required by
24 that subsection.

1 “(C) AGREEMENTS.—An official specified
2 in subparagraph (A) may enter into an agree-
3 ment with any other Federal agency or any
4 State agency or Indian Tribe under which that
5 official may use, with or without reimburse-
6 ment, the personnel, services, and facilities of
7 the agency or Indian Tribe for the enforcement
8 of this section and regulations issued under this
9 section.

10 “(D) AVAILABILITY OF INFORMATION.—
11 Not later than one year after the date of the
12 enactment of the FOREST Act of 2021, the
13 Commissioner shall develop a process to make
14 information filed with a declaration required by
15 subsection (b)(2) (other than information con-
16 sidered to be confidential business information)
17 available to the public.

18 “(2) COORDINATION OF ENFORCEMENT.—The
19 Commissioner shall share declarations filed under
20 subsection (b) and other information received by
21 U.S. Customs and Border Protection with the Trade
22 Representative, the Secretary of Agriculture, the
23 Secretary of the Interior, the Attorney General, and
24 the heads of other Federal agencies as needed to en-
25 sure effective enforcement of this section.

1 “(3) INFORMATION FROM OUTSIDE SOURCES.—
2 Not later than 180 days after the date of the enact-
3 ment of the FOREST Act of 2021, the Commis-
4 sioner shall establish a process for receiving informa-
5 tion from persons outside U.S. Customs and Border
6 Protection indicating that a covered commodity may
7 be being imported in violation of this section.

8 “(4) REPORT REQUIRED.—Not later than 2
9 years after the date of the enactment of the FOR-
10 EST Act of 2021, and annually thereafter, the Com-
11 missioner, with input from the heads of relevant
12 Federal agencies, shall submit to Congress a report
13 on the enforcement of this section that includes, for
14 the year preceding submission of the report—

15 “(A) the number of audits conducted by
16 Federal agencies of importers of record to de-
17 tect potential violations of this section;

18 “(B) the number of instances in which in-
19 formation was submitted to the Commissioner
20 under paragraph (3);

21 “(C) the number of investigations initiated
22 into possible violations of this section;

23 “(D) the number of such investigations ini-
24 tiated based on information submitted to the
25 Commissioner under paragraph (3);

1 “(E) the results of cases adjudicated fol-
2 lowing such an investigation;

3 “(F) the number of such investigations
4 pending as of the date of the report; and

5 “(G) an explanation of how information
6 submitted to the Commissioner under para-
7 graph (3) was used to prioritize audits and
8 other checks.

9 “(f) INTERAGENCY WORKING GROUP.—

10 “(1) IN GENERAL.—There is established an
11 interagency working group to provide advice and rec-
12 ommendations to the Trade Representative, the
13 Commissioner, and the heads of other relevant Fed-
14 eral agencies on the implementation of this section.

15 “(2) MEMBERSHIP.—The interagency working
16 group established under paragraph (1) shall be com-
17 posed of representatives of—

18 “(A) the Department of State;

19 “(B) the Department of Agriculture;

20 “(C) U.S. Customs and Border Protection;

21 “(D) the Office of the United States Trade
22 Representative;

23 “(E) the United States Agency for Inter-
24 national Development;

25 “(F) the Department of the Interior;

1 “(G) the Department of Justice; and

2 “(H) such other Federal agencies as the
3 Trade Representative considers appropriate.

4 “(3) CHAIRPERSON.—The representative of the
5 Office of the United States Trade Representative
6 shall serve as the chairperson of the interagency
7 working group established under paragraph (1).

8 “(g) ADVISORY COMMITTEE.—

9 “(1) IN GENERAL.—The Trade Representative
10 shall establish an advisory committee to provide ad-
11 vice and recommendations to the Trade Representa-
12 tive and the heads of other relevant Federal agencies
13 on the implementation of this section.

14 “(2) MEMBERSHIP.—The advisory committee
15 established under paragraph (1) shall be made up of
16 12 individuals—

17 “(A) 5 of whom shall be representatives of
18 institutions of higher education or nongovern-
19 mental organizations with expertise relevant to
20 international deforestation, associated human
21 rights abuses, or trade;

22 “(B) 5 of whom shall be representatives of
23 industry; and

24 “(C) 2 of whom shall be representatives of
25 labor organizations.

1 “(h) DEFINITIONS.—In this section:

2 “(1) DEFORESTATION.—The term ‘deforest-
3 ation’ means a loss of natural forest resulting from
4 the whole or partial conversion of natural forest to—

5 “(A) agricultural use or another non-forest
6 land use; or

7 “(B) a tree plantation.

8 “(2) HTS.—The term ‘HTS’ means the Har-
9 monized Tariff Schedule of the United States.

10 “(3) ILLEGAL DEFORESTATION.—The term ‘il-
11 legal deforestation’ means deforestation conducted in
12 violation of the law (or any action that has the force
13 and effect of law) of the country in which the defor-
14 estation is occurring, including—

15 “(A) anti-corruption laws;

16 “(B) laws relating to land tenure rights;
17 and

18 “(C) laws relating to the free, prior, and
19 informed consent of indigenous peoples and
20 local communities.

21 “(4) INDIAN TRIBE.—The term ‘Indian Tribe’
22 has the meaning given the term ‘Indian tribe’ in sec-
23 tion 4 of the Indian Self-Determination and Edu-
24 cation Assistance Act (25 U.S.C. 5304).

1 “(5) NATURAL FOREST.—The term ‘natural
2 forest’ means a natural arboreal ecosystem that—

3 “(A) has a species composition a signifi-
4 cant percentage of which is native species; and

5 “(B) includes—

6 “(i) a native tree canopy cover of
7 more than 10 percent over an area of not
8 less 0.5 hectares; or

9 “(ii) other wooded land with a com-
10 bined cover of shrubs, bushes, and trees of
11 more than 10 percent over an area of not
12 less than 0.5 hectares.

13 “(6) POINT OF ORIGIN.—

14 “(A) IN GENERAL.—The term ‘point of or-
15 igin’, with respect to a covered commodity,
16 means the geographical location, identified by
17 the smallest administrative unit of land possible
18 (such as a concession, farm, ranch, property, or
19 other type of public or private land allocation),
20 where the covered commodity was produced.

21 “(B) APPLICATION TO LIVESTOCK.—In the
22 case of livestock, the term ‘point of origin’ in-
23 cludes all geographic locations where that ani-
24 mal existed from birth to slaughter.

25 “(7) PRODUCE.—

1 “(A) IN GENERAL.—Except as provided by
 2 subparagraph (B), the term ‘produce’ means
 3 growing, harvesting, rearing, collecting, extract-
 4 ing, or otherwise producing a commodity.

5 “(B) EXCLUSION.—The term ‘produce’
 6 does not include refining or manufacturing.

7 “(8) SUPPLY CHAIN.—The term ‘supply chain’
 8 means the end-to-end process for getting commod-
 9 ities or products to the United States, beginning at
 10 the point of origin and including all points until
 11 entry into the United States, including refiners,
 12 manufacturers, suppliers, distributors, or vendors.

13 “(9) WHOLLY OR IN PART.—

14 “(A) IN GENERAL.—The term ‘wholly or in
 15 part’ shall have the meaning given that term in
 16 regulations.

17 “(B) REGULATIONS.—Regulations pre-
 18 scribed under subsection (b) of the FOREST
 19 Act of 2021 shall define the term ‘wholly or in
 20 part’ in a manner designed to limit the admin-
 21 istrative burden on the importer of record while
 22 deterring illegal deforestation.”.

23 (b) REGULATIONS.—Not later than one year after the
 24 date of the enactment of this Act, the Commissioner of
 25 U.S. Customs and Border Protection and the United

1 States Trade Representative shall publish final regulations
 2 for implementing section 527A of the Tariff Act of 1930,
 3 as added by subsection (a).

4 **SEC. 4. FOREIGN ASSISTANCE FOR COUNTRIES COM-**
 5 **MITTED TO ELIMINATING DEFORESTATION.**

6 (a) STATEMENT OF POLICY.—It is the policy of the
 7 United States to assist foreign governments in eliminating
 8 illegal deforestation and to limit all deforestation to the
 9 extent practicable.

10 (b) ESTABLISHMENT OF FUND.—

11 (1) IN GENERAL.—There is established in the
 12 Treasury of the United States a fund, consisting of
 13 amounts authorized to be appropriated or appro-
 14 priated under paragraph (2) or (3).

15 (2) DEPOSITS TO THE FUND.—There are au-
 16 thorized to be appropriated, and there are appro-
 17 priated, to the fund established under paragraph (1)
 18 for fiscal year 2022 and each fiscal year thereafter
 19 an amount equivalent to the amount of penalties es-
 20 timated by the Secretary of the Treasury to be col-
 21 lected under section 527A(e) of the Tariff Act of
 22 1930, as added by section 3, in that fiscal year.

23 (3) ADDITIONAL AUTHORIZATION OF APPRO-
 24 PRIATIONS.—In addition to amounts authorized to
 25 be appropriated under paragraph (2), there are au-

1 thorized to be appropriated to the fund established
2 under paragraph (1) \$30,000,000 to carry out this
3 section.

4 (4) AVAILABILITY OF FUNDS.—Amounts in the
5 fund established under paragraph (1) shall be avail-
6 able as follows:

7 (A) \$20,000,000 shall be available to the
8 Secretary of State—

9 (i) to provide financial and technical
10 assistance and other resources to the gov-
11 ernments of countries and implementing
12 partners that are working to complete the
13 benchmarks in action plans developed
14 under section 527A(d) of the Tariff Act of
15 1930, as added by section 3;

16 (ii) to provide assistance for inter-
17 national efforts to combat deforestation;

18 (iii) to provide assistance to civil soci-
19 ety, indigenous peoples, and local residents
20 in foreign countries to engage in efforts to
21 combat deforestation; and

22 (iv) to be transferred, notwithstanding
23 section 3302 of title 31, United States
24 Code, to the Administrator of the United
25 States Agency for International Develop-

1 ment and the heads of other appropriate
2 Federal agencies to provide assistance
3 under clauses (i), (ii), and (iii).

4 (B) \$8,000,000 shall be available to the
5 Commissioner of U.S. Customs and Border
6 Protection—

7 (i) to carry out the duties of the Com-
8 missioner under section 527A of the Tariff
9 Act of 1930, as added by section 3; and

10 (ii) to be transferred, notwithstanding
11 section 3302 of title 31, United States
12 Code, to the Secretary of Agriculture and
13 the Secretary of the Interior for moni-
14 toring, audits, enforcement, and other du-
15 ties assigned under such section 527A.

16 (C) \$3,000,000 shall be available to the
17 United States Trade Representative to carry
18 out the duties of the Trade Representative
19 under such section 527A.

20 (c) DEFINITIONS.—In this section, the terms “defor-
21 estation” and “illegal deforestation” have the meanings
22 given those terms in section 527A(h) of the Tariff Act
23 of 1930, as added by section 3.

1 **SEC. 5. INCLUSION OF ILLEGAL DEFORESTATION AS SPECI-**
 2 **FIED UNLAWFUL ACTIVITY.**

3 Section 1956(c)(7)(B) of title 18, United States
 4 Code, is amended—

5 (1) in clause (vi), by striking “; or” and insert-
 6 ing a semicolon;

7 (2) in clause (vii), by striking the semicolon and
 8 inserting “; or”; and

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

10 “(viii) any act, engaged in knowingly,
 11 to carry out, enable, or encourage illegal
 12 deforestation (as defined in section
 13 527A(h) of the Tariff Act of 1930).”.

14 **SEC. 6. PROCUREMENT PREFERENCE FOR COMMODITIES**
 15 **NOT PRODUCED FROM LAND SUBJECT TO DE-**
 16 **FORESTATION.**

17 (a) IN GENERAL.—Chapter 47 of title 41, United
 18 States Code, is amended by adding at the end the fol-
 19 lowing:

20 **“§ 4715. Procurement preference for commodities not**
 21 **produced from land subject to deforest-**
 22 **ation**

23 “(a) IN GENERAL.—In comparing proposals for the
 24 purpose of awarding a contract involving any product
 25 made wholly or in part of a covered commodity (as defined
 26 by section 1527A(c) of the Tariff Act of 1930), the head

1 of an executive agency shall reduce the bid price by 10
 2 percent if the contractor demonstrates to the satisfaction
 3 of the head of the agency that—

4 “(1) the contractor has a policy described in
 5 subsection (b) in effect; and

6 “(2) the policy and data on monitoring and en-
 7 forcement of that policy are publicly available and
 8 updated not less frequently than annually.

9 “(b) POLICY DESCRIBED.—A policy described in this
 10 subsection is a policy that includes, at a minimum, the
 11 following:

12 “(1) Measures to identify the point-of-origin of
 13 forest-risk commodities and ensure compliance with
 14 the policy when supply chain risks are present.

15 “(2) Data detailing the complete list of direct
 16 and indirect suppliers and supply chain traceability
 17 information, including refineries, processing plants,
 18 farms, and plantations, and their respective owners,
 19 parent entities, and farmers, maps, and geolocations,
 20 for each forest-risk commodity found in products
 21 that may be furnished to the Federal Government.

22 “(3) Measures taken to ensure that each such
 23 commodity does not contribute to deforestation.

24 “(4) Measures taken to ensure the process of
 25 obtaining the free, prior, and informed consent of in-

1 digenous peoples and local communities directly af-
 2 fected by the production of such commodities.

3 “(5) Measures taken to protect biodiversity and
 4 prevent the poaching of wildlife and trade in
 5 bushmeat in all operations and areas adjacent to the
 6 production of such commodities.

7 “(6) Measures taken to ensure compliance with
 8 the laws of countries where forest-risk commodities
 9 in the supply chain of the contractor are produced.

10 “(c) BUY AMERICAN REQUIREMENTS.—Subsection
 11 (a) does not affect the application of the requirements of
 12 chapter 83 of title 41, United States Code.

13 “(d) DEFINITIONS.—In this section:

14 “(1) DEFORESTATION; PRODUCE.—The terms
 15 ‘deforestation’ and ‘produce’ have the meanings
 16 given those terms in section 527A(h) of the Tariff
 17 Act of 1930.

18 “(2) FOREST-RISK COMMODITY.—The term
 19 ‘forest-risk commodity’ means a commodity at risk
 20 of being produced from land subject to deforest-
 21 ation.”.

22 “(b) CLERICAL AMENDMENT.—The table of sections
 23 for such chapter is amended by inserting after the item
 24 relating to section 4714 the following:

“4715. Procurement preference for commodities not produced from land subject to deforestation.”.

