

111TH CONGRESS  
1ST SESSION

# S. 1982

To renew and extend the provisions relating to identification of trade enforcement priorities, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 28, 2009

Mr. BROWN (for himself, Ms. STABENOW, Mr. LEVIN, Mr. FEINGOLD, and Mr. SPECTER) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To renew and extend the provisions relating to identification of trade enforcement priorities, 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 “Trade Enforcement  
5       Priorities Act”.

6       **SEC. 2. IDENTIFICATION OF TRADE ENFORCEMENT PRIOR-**  
7       **ITIES.**

8       (a) IN GENERAL.—Section 310 of the Trade Act of  
9       1974 (19 U.S.C. 2420) is amended to read as follows:

1 **“SEC. 310. IDENTIFICATION OF TRADE ENFORCEMENT PRI-**  
2 **ORITIES.**

3 “(a) IDENTIFICATION AND ANNUAL REPORT.—Not  
4 later than 75 days after the date that the National Trade  
5 Estimate under section 181(b) is required to be submitted  
6 each calendar year, the United States Trade Representa-  
7 tive shall—

8 “(1) identify the trade enforcement priorities of  
9 the United States;

10 “(2) identify trade enforcement actions that the  
11 United States has taken during the previous year  
12 and provide an assessment of the impact those en-  
13 forcement actions have had in addressing foreign  
14 trade barriers;

15 “(3) identify the priority foreign country trade  
16 practices on which the Trade Representative will  
17 focus the trade enforcement efforts of the United  
18 States during the upcoming year; and

19 “(4) submit to the Committee on Finance of  
20 the Senate and the Committee on Ways and Means  
21 of the House of Representatives and publish in the  
22 Federal Register a report on the priorities, actions,  
23 assessments, and practices identified in paragraphs  
24 (1), (2), and (3).

1       “(b) FACTORS TO CONSIDER.—In identifying pri-  
2       ority foreign country trade practices under subsection  
3       (a)(3), the Trade Representative shall—

4               “(1) focus on those practices the elimination of  
5       which is likely to have the most significant potential  
6       to increase United States economic growth; and

7               “(2) concentrate on United States trading part-  
8       ners—

9                       “(A) that represent the largest trade def-  
10       icit in dollar value with the United States, ex-  
11       cluding petroleum and petroleum products;

12                      “(B) whose practices have the most nega-  
13       tive impact on maintaining and creating United  
14       States jobs, wages, and productive capacity;  
15       and

16                      “(C) whose practices limit market access  
17       for United States goods and services; and

18               “(3) take into account all relevant factors, in-  
19       cluding—

20                      “(A) the major barriers and trade dis-  
21       torting practices described in the most recent  
22       National Trade Estimate required under section  
23       181(b);

24                      “(B) the findings and practices described  
25       in the most recent report required under—

1 “(i) section 182;

2 “(ii) section 1377 of the Omnibus  
3 Trade and Competitiveness Act of 1988  
4 (19 U.S.C. 3106);

5 “(iii) section 3005 of the Omnibus  
6 Trade and Competitiveness Act of 1988  
7 (22 U.S.C. 5305); and

8 “(iv) section 421 of the U.S.-China  
9 Relations Act of 2000 (22 U.S.C. 6951);

10 “(C) the findings and practices described  
11 in any other report addressing international  
12 trade and investment barriers prepared by the  
13 Trade Representative, the Department of Com-  
14 merce, the Department of Labor, the Depart-  
15 ment of Agriculture, and the Department of  
16 State, or any other agency or congressional  
17 commission during the 12 months preceding the  
18 date on which the report described in subsection  
19 (a)(4) is required to be submitted;

20 “(D) a foreign country’s compliance with  
21 its obligations under any trade agreements to  
22 which both the foreign country and the United  
23 States are parties;

1           “(E) a foreign country’s compliance with  
 2           its obligations under internationally recognized  
 3           sanitary and phytosanitary standards;

4           “(F) the international competitive position  
 5           and export potential of United States products  
 6           and services; and

7           “(G) the enforcement of customs laws re-  
 8           lating to anticircumvention and transshipment.

9           “(c) CONSULTATION.—

10           “(1) IN GENERAL.—Not later than 90 days  
 11           after the date that the National Trade Estimate  
 12           under section 181(b) is required to be submitted, the  
 13           Trade Representative shall consult with the Com-  
 14           mittee on Finance of the Senate and the Committee  
 15           on Ways and Means of the House of Representatives  
 16           with respect to the priorities, actions, assessments,  
 17           and practices required to be identified in the report  
 18           under subsection (a).

19           “(2) VOTE OF COMMITTEE.—If, as a result of  
 20           the consultations described in paragraph (1), either  
 21           the Committee on Finance of the Senate or the  
 22           Committee on Ways and Means of the House of  
 23           Representatives requests identification of a priority  
 24           foreign country trade practice by majority vote of  
 25           the Committee, the Trade Representative shall in-

1       clude such identification in the report required  
2       under subsection (a).

3               “(3) DETERMINATION NOT TO INCLUDE PRI-  
4       ORITY FOREIGN COUNTRY TRADE PRACTICES.—The  
5       Trade Representative may determine not to include  
6       the priority foreign country trade practice requested  
7       under paragraph (2) in the report required under  
8       subsection (a) only if the Trade Representative finds  
9       that—

10              “(A) such practice is already being ad-  
11             dressed under provisions of United States trade  
12             law, under the Uruguay Round Agreements (as  
13             defined in section 2(7) of the Uruguay Round  
14             Agreements Act (19 U.S.C. 3501(7))), under a  
15             bilateral or regional trade agreement, or as part  
16             of trade negotiations with that foreign country  
17             or other countries, and progress is being made  
18             toward the elimination of such practice; or

19              “(B) identification of such practice as a  
20             priority foreign country trade practice would be  
21             contrary to the interests of United States trade  
22             policy.

23              “(4) REASONS FOR DETERMINATION.—In the  
24       case of a determination made pursuant to paragraph  
25       (3), the Trade Representative shall set forth in de-

1 tail the reasons for that determination in the report  
2 required under subsection (a).

3 “(5) REPORT TO BE PUBLICLY AVAILABLE.—  
4 The Trade Representative shall publish the report  
5 required under subsection (a) in the Federal Reg-  
6 ister.

7 “(d) INVESTIGATION AND RESOLUTION.—

8 “(1) IN GENERAL.—Not later than 120 days  
9 after the report required under subsection (a) is sub-  
10 mitted, the Trade Representative shall engage in ne-  
11 gotiations with the country concerned in accordance  
12 with paragraph (2) or (3), as the case may be, to  
13 resolve the practices identified in the report.

14 “(2) ACTIONS WITH RESPECT TO PRACTICES OF  
15 MEMBERS OF THE WORLD TRADE ORGANIZATION OR  
16 COUNTRIES WITH WHICH THE UNITED STATES HAS  
17 A TRADE AGREEMENT IN EFFECT.—In the case of  
18 any priority foreign country trade practice identified  
19 under subsection (a) of a country that is a member  
20 of the World Trade Organization or a country with  
21 which the United States has a bilateral or regional  
22 trade agreement in effect, the Trade Representative  
23 shall, not later than 120 days after the date that the  
24 report described in subsection (a) is submitted—

1           “(A)(i) initiate dispute settlement consulta-  
2           tions in the World Trade Organization; or

3           “(ii) initiate dispute settlement consulta-  
4           tions under the applicable provisions of the bi-  
5           lateral or regional trade agreement;

6           “(B) seek to negotiate an agreement that  
7           provides for the elimination of the priority for-  
8           eign country trade practice or, if elimination of  
9           the practice is not feasible, an agreement that  
10          provides for compensatory trade benefits; or

11          “(C) take any other action necessary to fa-  
12          cilitate the elimination of the priority foreign  
13          country trade practice.

14          “(3) ACTIONS WITH RESPECT TO PRACTICES OF  
15          OTHER COUNTRIES.—In the case of any priority for-  
16          eign country trade practice identified under sub-  
17          section (a) of a country that is not described in  
18          paragraph (2), the Trade Representative shall, not  
19          later than 120 days after the report described in  
20          subsection (a) is submitted—

21                 “(A) initiate an investigation under section  
22                 302(b)(1);

23                 “(B) seek to negotiate an agreement that  
24                 provides for the elimination of the priority for-  
25                 eign country trade practice or, if elimination of



1 the practice is not feasible, an agreement that  
2 provides for compensatory trade benefits; or

3 “(C) take any other action necessary to  
4 eliminate the priority foreign country trade  
5 practice.

6 “(e) ADDITIONAL REPORTING.—

7 “(1) REPORT BY TRADE REPRESENTATIVE.—

8 Not later than 180 days after the date of the enact-  
9 ment of this section, and every 180 days thereafter,  
10 the Trade Representative shall report to the Com-  
11 mittee on Finance of the Senate and the Committee  
12 on Ways and Means of the House of Representatives  
13 on the progress being made to realize the trade en-  
14 forcement priorities identified in subsection (a)(1)  
15 and the steps being taken to address the priority  
16 foreign country trade practices identified in sub-  
17 section (a)(3).

18 “(2) REPORT BY GOVERNMENT ACCOUNT-  
19 ABILITY OFFICE.—Not later than 2 years after the  
20 date of the enactment of this section, and every 2  
21 years thereafter, the Comptroller General of the  
22 United States shall submit to the Committee on Fi-  
23 nance of the Senate and the Committee on Ways  
24 and Means of the House of Representatives a report  
25 assessing the actions taken by the Trade Represent-

1       ative to realize the trade enforcement priorities iden-  
2       tified in subsection (a)(1) and the steps being taken  
3       to address the priority foreign country trade prac-  
4       tices identified in subsection (a)(3).”.

5       (b) CONFORMING AMENDMENT.—The table of con-  
6       tents for the Trade Act of 1974 is amended by striking  
7       the item relating to section 310, and inserting the fol-  
8       lowing new item:

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

