

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.

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## 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

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## 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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