

115TH CONGRESS
1ST SESSION

S. 408

To require the President to disclose income, assets, and liabilities associated with countries with which the United States is negotiating a trade or investment agreement, countries subject to Presidential determinations in trade enforcement actions, and countries eligible for trade preference programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 16, 2017

Mr. WYDEN (for himself, Mr. CARDIN, Ms. STABENOW, Mr. SCHUMER, Mr. BROWN, Mr. CASEY, Mr. MENENDEZ, Mr. BLUMENTHAL, Mr. LEAHY, Mrs. McCASKILL, Mr. VAN HOLLEN, Ms. WARREN, Mrs. FEINSTEIN, and Mr. REED) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To require the President to disclose income, assets, and liabilities associated with countries with which the United States is negotiating a trade or investment agreement, countries subject to Presidential determinations in trade enforcement actions, and countries eligible for trade preference programs, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Presidential Trade
3 Transparency Act of 2017”.

4 **SEC. 2. DISCLOSURE BY PRESIDENT OF INCOME, ASSETS,**
5 **AND LIABILITIES ASSOCIATED WITH COUN-**
6 **TRIES WITH WHICH THE UNITED STATES IS**
7 **NEGOTIATING A TRADE OR INVESTMENT**
8 **AGREEMENT.**

9 (a) IN GENERAL.—Before initiating or continuing ne-
10 gotiations with a country for a trade or investment agree-
11 ment, the President shall submit to Congress a report, in
12 accordance with subsection (b) or (c), containing a full
13 and complete statement of income earned, assets held, and
14 liabilities owed by the President and associated with the
15 country in the 12-month period preceding the submission
16 of the report.

17 (b) TIMING OF REPORT FOR NEW NEGOTIATIONS.—
18 In the case of negotiations for a trade or investment agree-
19 ment with a country initiated on or after the date of the
20 enactment of this Act, the President shall submit the re-
21 port required by subsection (a)—

22 (1) in the case of negotiations subject to the Bi-
23 partisan Congressional Trade Priorities and Ac-
24 countability Act of 2015 (19 U.S.C. 4201 et seq.)
25 with respect to which the President is required to
26 submit a notification under section 103(a)(2) or

1 105(a)(1)(A) of that Act (19 U.S.C. 4202(a)(2) and
2 4204(a)(1)(A)), not later than the date on which the
3 President submits the notification;

4 (2) in the case of negotiations subject to the
5 Uruguay Round Agreements Act (19 U.S.C. 3501 et
6 seq.), not later than the date on which the President
7 submits the report required by section 115(2) of
8 that Act (19 U.S.C. 3524(2));

9 (3) in the case of negotiations subject to the
10 North American Free Trade Agreement Implemen-
11 tation Act (19 U.S.C. 3301 et seq.), not later than
12 the date on which the President submits the report
13 required by section 103(a)(2) of that Act (19 U.S.C.
14 3313(a)(2)); or

15 (4) in the case of negotiations for a trade or in-
16 vestment agreement not covered by paragraph (1),
17 (2), or (3), not less than 60 days before initiating
18 the negotiations.

19 (c) TIMING OF REPORT FOR PENDING NEGOTIA-
20 TIONS.—In the case of negotiations for a trade or invest-
21 ment agreement with a country initiated before the date
22 of the enactment of this Act, the President shall submit
23 the report required by subsection (a) with respect to that
24 country not later than 90 days after such date of enact-
25 ment.

1 **SEC. 3. DISCLOSURE BY PRESIDENT OF INCOME, ASSETS,**
2 **AND LIABILITIES ASSOCIATED WITH COUN-**
3 **TRIES SUBJECT TO PRESIDENTIAL DETER-**
4 **MINATIONS IN TRADE ENFORCEMENT AC-**
5 **TIONS.**

6 (a) IN GENERAL.—Before taking a covered action
7 under a trade enforcement law with respect to a country,
8 the President shall submit to Congress, in accordance with
9 subsection (b), a report containing a full and complete
10 statement of income earned, assets held, and liabilities
11 owed by the President and associated with the country in
12 the 12-month period preceding the submission of the re-
13 port.

14 (b) TIMING OF REPORT.—The President shall submit
15 the report required by subsection (a)—

16 (1) in the case of a covered action under section
17 201 of the Trade Act of 1974 (19 U.S.C. 2251) with
18 respect to which a document is required to be trans-
19 mitted to Congress under section 203(b) of that Act
20 (19 U.S.C. 2253(b)), not less than 30 days before
21 the President transmits the document;

22 (2) in the case of a covered action under section
23 301 of the Trade Act of 1974 (19 U.S.C. 2411) that
24 is the subject of a direction of the President as de-
25 scribed in subsection (a)(1) or (b)(2) of that section,
26 not less than 30 days before making that direction;

1 (3) in the case of a covered action under section
 2 337 of the Tariff Act of 1930 (19 U.S.C. 1337), not
 3 later than 30 days after the date on which a copy
 4 of the determination of the United States Inter-
 5 national Trade Commission is transmitted to the
 6 President under subsection (j) of that section;

7 (4) in the case of a covered action under section
 8 701(b)(2) of the Trade Facilitation and Trade En-
 9 forcement Act of 2015 (19 U.S.C. 4421(b)(2)), not
 10 later than the date on which the report required
 11 under subparagraph (B) of that section is submitted
 12 to Congress; or

13 (5) in the case of a covered action not covered
 14 by paragraph (1), (2), (3), or (4), not less than 30
 15 days before taking such action.

16 (c) DEFINITIONS.—In this section:

17 (1) COVERED ACTION.—The term “covered ac-
 18 tion” means—

19 (A) the modification under a trade enforce-
 20 ment law of a duty imposed with respect to ar-
 21 ticles imported from a country; or

22 (B) waiving action, or declining to exercise
 23 authority to take action, under a trade enforce-
 24 ment law in a trade enforcement matter with
 25 respect to a country.

1 (2) TRADE ENFORCEMENT LAW.—The term
2 “trade enforcement law” means—

3 (A) chapter I of title II of the Trade Act
4 of 1974 (19 U.S.C. 2251 et seq.);

5 (B) title III of that Act (19 U.S.C. 2411
6 et seq.);

7 (C) section 122 of that Act (19 U.S.C.
8 2132);

9 (D) section 406, 421, or 422 of that Act
10 (19 U.S.C. 2436, 2451, and 2451a);

11 (E) sections 337 and 338(a) of the Tariff
12 Act of 1930 (19 U.S.C. 1337 and 1338(a));

13 (F) section 232 of the Trade Expansion
14 Act of 1962 (19 U.S.C. 1862);

15 (G) section 701 of the Trade Facilitation
16 and Trade Enforcement Act of 2015 (19 U.S.C.
17 4421);

18 (H) the International Emergency Eco-
19 nomic Powers Act (50 U.S.C. 1701 et seq.); or

20 (I) any other provision of law providing the
21 President with authority to restrict trade with
22 a foreign country through modification of a
23 duty on imports.

1 **SEC. 4. DISCLOSURE BY PRESIDENT OF INCOME, ASSETS,**
2 **AND LIABILITIES ASSOCIATED WITH COUN-**
3 **TRIES ELIGIBLE FOR TRADE PREFERENCE**
4 **PROGRAMS.**

5 (a) IN GENERAL.—Before taking a covered action
6 under a trade preference program with respect to a coun-
7 try or an article imported from a country, the President
8 shall submit to Congress, in accordance with subsection
9 (b), a report containing a full and complete statement of
10 income earned, assets held, and liabilities owed by the
11 President and associated with the country in the 12-month
12 period preceding the submission of the report.

13 (b) TIMING OF REPORT.—The President shall submit
14 the report required by subsection (a)—

15 (1) in the case of a covered action under title
16 V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.)
17 with respect to which the President is required to
18 submit a notification under section 502(f) of the
19 Trade Act of 1974 (19 U.S.C. 2462(f)) or a report
20 under section 506A(a)(2) of that Act (19 U.S.C.
21 2466a(a)(2)), at the time the President submits the
22 notification or report;

23 (2) in the case of a covered action under the
24 Caribbean Basin Economic Recovery Act (19 U.S.C.
25 2701 et seq.) with respect to which the President is
26 required to submit a notification under paragraph

1 (1) or (2) of section 212(a) of that Act (19 U.S.C.
 2 2702(a)) or a report under section
 3 213(b)(2)(A)(v)(II)(cc) of that Act (19 U.S.C.
 4 2703(b)(2)(A)(v)(II)(cc)), at the time the President
 5 submits the notification or report; or

6 (3) in the case of a covered action not covered
 7 by paragraph (1) or (2), not later than 60 days be-
 8 fore taking the action.

9 (c) DEFINITIONS.—In this section:

10 (1) COVERED ACTION.—The term “covered ac-
 11 tion” means—

12 (A) the designation of a country as eligible
 13 for preferential treatment under a trade pref-
 14 erence program;

15 (B) the termination of such a designation;

16 (C) any determination with respect to the
 17 eligibility of an article for preferential treat-
 18 ment under a trade preference program;

19 (D) the withdrawal, suspension, or limita-
 20 tion of preferential treatment under a trade
 21 preference program with respect to a country or
 22 an article; or

23 (E) the exercise of the authority to waive
 24 the competitive need limitation with respect to

1 an article under section 503(d) of the Trade
2 Act of 1974 (19 U.S.C. 2463(d)).

3 (2) TRADE PREFERENCE PROGRAM.—The term
4 “trade preference program” means—

5 (A) the Generalized System of Preferences
6 under title V of the Trade Act of 1974 (19
7 U.S.C. 2461 et seq.);

8 (B) the African Growth and Opportunity
9 Act (19 U.S.C. 3701 et seq.);

10 (C) the Caribbean Basin Economic Recov-
11 ery Act (19 U.S.C. 2701 et seq.); or

12 (D) section 915 of the Trade Facilitation
13 and Trade Enforcement Act of 2015 (19 U.S.C.
14 4454).

15 **SEC. 5. CONTENTS OF DISCLOSURE REPORTS.**

16 The President shall include in a report required
17 under section 2, 3, or 4 with respect to a country—

18 (1) the information specified in section 102(a)
19 of the Ethics in Government Act of 1978 (5 U.S.C.
20 App. 102(a)), with respect to each source of income,
21 each asset, and each liability associated with the
22 country; and

23 (2) a detailed description of the nature of the
24 association of each such source of income, asset, or
25 liability with the country.

1 **SEC. 6. EFFECT OF FAILURE TO TIMELY DISCLOSE.**

2 (a) **TARIFF MODIFICATIONS.**—If the President fails
3 to submit a report required by this Act with respect to
4 an action modifying tariff treatment with respect to arti-
5 cles imported from a country by the time required by this
6 Act, any instrument providing for the modification of such
7 tariff treatment shall have no force or effect.

8 (b) **TRADE AND INVESTMENT AGREEMENTS.**—If the
9 President fails to submit a report required by section 2
10 with respect to negotiations for a trade or investment
11 agreement with a country by the time required by that
12 section, the implementing bill submitted to Congress with
13 respect to that agreement shall not be eligible for the trade
14 authorities procedures under section 103 of the Bipartisan
15 Congressional Trade Priorities and Accountability Act of
16 2015 (19 U.S.C. 4202).

17 **SEC. 7. DEFINITIONS.**

18 In this Act:

19 (1) **ASSOCIATED WITH A COUNTRY.**—The term
20 “associated with a country” or “associated with the
21 country”—

22 (A) with respect to an asset, means—

23 (i) any financial account maintained
24 by a financial institution that is a person
25 of the country;

1 (ii) any stock or security issued by a
2 person of the country;

3 (iii) any financial instrument or con-
4 tract held for investment that has an
5 issuer or counterparty that is a person of
6 the country;

7 (iv) any interest in a person of the
8 country; or

9 (v) any real property located in the
10 country or in which a person of the coun-
11 try, including any representative or agent
12 of the government of the country, has a fi-
13 nancial interest;

14 (B) with respect to income, includes divi-
15 dends, rents, interest, or capital gains or any
16 other income (as defined in section 61 of the
17 Internal Revenue Code of 1986) received di-
18 rectly or indirectly from an asset associated
19 with the country or any gift or reimbursement
20 received from a person of the country, including
21 any representative or agent of the government
22 of the country; and

23 (C) with respect to a liability, refers to any
24 liability owed to any creditor that is a person of

1 the country, including an enterprise owned or
2 controlled by the government of the country.

3 (2) PERSON OF THE COUNTRY.—

4 (A) IN GENERAL.—Except as provided in
5 subparagraph (B), with respect to a country,
6 the term “person of the country” means—

7 (i) an individual who is a citizen of
8 the country; or

9 (ii) a branch, partnership, group or
10 subgroup, association, estate, trust, cor-
11 poration or division of a corporation, or
12 other organization if—

13 (I) it is organized under the laws
14 of the country;

15 (II) its principal place of business
16 is in the country; or

17 (III) its equity securities are pri-
18 marily traded on one or more ex-
19 changes of the country.

20 (B) EXCEPTION.—The term “person of the
21 country” does not include any branch, partner-
22 ship, group or subgroup, association, estate,
23 trust, corporation or division of a corporation,
24 or other organization for which it is dem-
25 onstrated that a majority of the equity interest

- 1 in the organization is ultimately owned by na-
- 2 tionals of the United States.

