112TH CONGRESS
1ST SESSION

S._____

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

IN THE SENATE OF THE UNITED STATES

Mr. BROWN of Ohio (for himself, Ms. STABENOW, and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on

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:
"SEC. 310. IDENTIFICATION OF TRADE ENFORCEMENT PRI-
ORITIES.

(a) IDENTIFICATION AND ANNUAL REPORT.—Not later than 75 days after the date that the National Trade Estimate under section 181(b) is required to be submitted each calendar year, the United States Trade Representative shall—

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

“(2) identify trade enforcement actions that the United States has taken during the previous year and provide an assessment of the impact those enforcement actions have had in addressing foreign trade barriers;

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

“(4) submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives and publish in the Federal Register a report on the priorities, actions, assessments, and practices identified in paragraphs (1), (2), and (3).
“(b) Factors To Consider.—In identifying priority foreign country trade practices under subsection (a)(3), the Trade Representative shall—

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

“(2) concentrate on United States trading partners—

“(A) that represent the largest trade deficit in dollar value with the United States, excluding petroleum and petroleum products;

“(B) whose practices have the most negative impact on maintaining and creating United States jobs, wages, and productive capacity; and

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

“(3) take into account all relevant factors, including—

“(A) the major barriers and trade distorting practices described in the most recent National Trade Estimate required under section 181(b);

“(B) the findings and practices described in the most recent report required under—
“(i) section 182;

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

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

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

“(C) the findings and practices described in any other report addressing international trade and investment barriers prepared by the Trade Representative, the Department of Commerce, the Department of Labor, the Department of Agriculture, and the Department of State, or any other agency or congressional commission during the 12 months preceding the date on which the report described in subsection (a)(4) is required to be submitted;

“(D) a foreign country’s compliance with its obligations under any trade agreements to which both the foreign country and the United States are parties;
“(E) a foreign country’s compliance with its obligations under internationally recognized sanitary and phytosanitary standards;

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

“(G) the enforcement of customs laws relating to anticircumvention and transshipment.

“(e) Consultation.—

“(1) In general.—Not later than 90 days after the date that the National Trade Estimate under section 181(b) is required to be submitted, the Trade Representative shall consult with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to the priorities, actions, assessments, and practices required to be identified in the report under subsection (a).

“(2) Vote of Committee.—If, as a result of the consultations described in paragraph (1), either the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives requests identification of a priority foreign country trade practice by majority vote of the Committee, the Trade Representative shall in-
clude such identification in the report required under subsection (a).

“(3) **Determination not to include priority foreign country trade practices.**—The Trade Representative may determine not to include the priority foreign country trade practice requested under paragraph (2) in the report required under subsection (a) only if the Trade Representative finds that—

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

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

“(4) **Reasons for determination.**—In the case of a determination made pursuant to paragraph (3), the Trade Representative shall set forth in de-
tail the reasons for that determination in the report required under subsection (a).

“(5) Report to be publicly available.—

The Trade Representative shall publish the report required under subsection (a) in the Federal Register.

“(d) Investigation and Resolution.—

“(1) In general.—Not later than 120 days after the report required under subsection (a) is submitted, the Trade Representative shall engage in negotiations with the country concerned in accordance with paragraph (2) or (3), as the case may be, to resolve the practices identified in the report.

“(2) Actions with respect to practices of members of the World Trade Organization or countries with which the United States has a trade agreement in effect.—In the case of any priority foreign country trade practice identified under subsection (a) of a country that is a member of the World Trade Organization or a country with which the United States has a bilateral or regional trade agreement in effect, the Trade Representative shall, not later than 120 days after the date that the report described in subsection (a) is submitted—
“(A)(i) initiate dispute settlement consultations in the World Trade Organization; or

“(ii) initiate dispute settlement consultations under the applicable provisions of the bilateral or regional trade agreement;

“(B) seek to negotiate an agreement that provides for the elimination of the priority foreign country trade practice or, if elimination of the practice is not feasible, an agreement that provides for compensatory trade benefits; or

“(C) take any other action necessary to facilitate the elimination of the priority foreign country trade practice.

“(3) ACTIONS WITH RESPECT TO PRACTICES OF OTHER COUNTRIES.—In the case of any priority foreign country trade practice identified under subsection (a) of a country that is not described in paragraph (2), the Trade Representative shall, not later than 120 days after the report described in subsection (a) is submitted—

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

“(B) seek to negotiate an agreement that provides for the elimination of the priority foreign country trade practice or, if elimination of
the practice is not feasible, an agreement that
provides for compensatory trade benefits; or

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

“(e) ADDITIONAL REPORTING.—

“(1) REPORT BY TRADE REPRESENTATIVE.—
Not later than 180 days after the date of the enact-
ment of this section, and every 180 days thereafter,
the Trade Representative shall report to the Com-
mittee on Finance of the Senate and the Committee
on Ways and Means of the House of Representatives
on the progress being made to realize the trade en-
forcement priorities identified in subsection (a)(1)
and the steps being taken to address the priority
foreign country trade practices identified in sub-
section (a)(3).

“(2) REPORT BY GOVERNMENT ACCOUNT-
ABILITY OFFICE.—Not later than 2 years after the
date of the enactment of this section, and every 2
years thereafter, the Comptroller General of the
United States shall submit to the Committee on Fi-
nance of the Senate and the Committee on Ways
and Means of the House of Representatives a report
assessing the actions taken by the Trade Represent-
ative to realize the trade enforcement priorities identified in subsection (a)(1) and the steps being taken to address the priority foreign country trade practices identified in subsection (a)(3.”.

(b) CONFORMING AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by striking the item relating to section 310, and inserting the following new item:

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