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(Original Signature of Member)

118TH CONGRESS
2D SESSION

H. R. _____

To provide additional authority of the United States International Trade Commission under section 301 of the Trade Act of 1974.

IN THE HOUSE OF REPRESENTATIVES

Mr. ARRINGTON introduced the following bill; which was referred to the Committee on _____

A BILL

To provide additional authority of the United States International Trade Commission under section 301 of the Trade Act of 1974.

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 “Axing Non-Market
5 Tariff Evasion Act” or “ANTE Act”.

1 **SEC. 2. ADDITIONAL AUTHORITY OF THE UNITED STATES**
2 **INTERNATIONAL TRADE COMMISSION UNDER**
3 **SECTION 301 OF THE TRADE ACT OF 1974.**

4 (a) IN GENERAL.—Section 301 of the Trade Act of
5 1974 (19 U.S.C. 2411) is amended by adding at the end
6 the following:

7 “(e) ADDITIONAL AUTHORITY OF THE USITC.—

8 “(1) IN GENERAL.—The United States Inter-
9 national Trade Commission is authorized to inves-
10 tigate whether entities controlled by the governments
11 of non-market economy countries are establishing or
12 planning to establish investments in third countries
13 to evade tariffs imposed under this section on the
14 non-market economy. If the Commission makes an
15 affirmative determination, it can recommend a trade
16 remedy to the President or Congress against the
17 third-country investment equal to the value of the
18 tariff imposed under this section on the relevant
19 product exported from the non-market economy
20 country.

21 “(2) NON-MARKET ECONOMY COUNTRIES DE-
22 FINED.—For purposes of this subsection, the term
23 “non-market economy countries” means those coun-
24 tries listed on both—

25 “(A) the Department of Commerce’s Inter-
26 national Trade Administration’s determination

1 pertinent to section 771(18) of the Tariff Act
2 of 1930; and

3 “(B) the Office of the United States Trade
4 Representative’s ‘Special 301 Priority Watch
5 List’.

6 “(3) MATTERS RELATING TO INVESTIGA-
7 TIONS.—

8 “(A) An investigation under this sub-
9 section may be requested by—

10 “(i) an interested party, as described
11 in subparagraph (C), (D), (E), (F), or (G)
12 of section 771(9) of the Tariff Act of
13 1930;

14 “(ii) the Office of the United States
15 Trade Representative; or

16 “(iii) Congress.

17 “(B) If the Commission determines that
18 there is a reasonable indication that an invest-
19 ment or planned investment by a non-market
20 entity in a third country is established or
21 planned to be established in a third country to
22 evade United States tariffs, the Commission
23 may initiate the investigation under this sub-
24 section.

25 “(C) The Commission shall determine—

1 “(i) if an investigation is germane not
2 later than 45 days after the petitioner’s re-
3 quest; and

4 “(ii) if a remedy is warranted not
5 later than 180 days after making a deter-
6 mination under clause (i).

7 “(D) During its investigation, the Commis-
8 sion shall make an affirmative determination of
9 tariff evasion if it is found that the third coun-
10 try investment is—

11 “(i) being established or acquired by
12 an entity owned by, controlled by, or sub-
13 ject to the jurisdiction or direction of a
14 non-market economy country;

15 “(ii) producing or planning to produce
16 a good subject to a Section 301 tariff, but
17 not subject to an exclusion, on the non-
18 market economy country; and

19 “(iii) exporting or planning on export-
20 ing this good to the United States.

21 “(4) MATTERS RELATING TO DETERMINA-
22 TIONS.—

23 “(A) If the Commission determines that an
24 entity controlled by a non-market economy
25 country is establishing or planning to establish

1 an investment in a third country to evade pay-
2 ing United States tariffs on the non-market
3 economy country, the Commission may rec-
4 ommend a remedy against the investment itself
5 or broad imports of the product in question
6 from the third country.

7 “(B) If the Commission determines that
8 action should be taken against imports only
9 from the third country investment, the Presi-
10 dent may unilaterally impose a retaliatory
11 measure exclusively against the third-country
12 investment. This action can be reactively taken
13 if the third country facility has recently begun
14 production, or proactively taken if the non-mar-
15 ket entity has immediate plans to establish pro-
16 duction in the third country. If the President
17 does not act against the entity after an affirma-
18 tive the Commission’s determination, the Presi-
19 dent shall submit feedback to Congress explain-
20 ing why the decision was not taken, expressing
21 the social and economic impacts of not taking
22 action.

23 “(C) If the Commission determines that
24 action should be taken against broad imports
25 from the third country in which the non-mar-

1 ket-controlled entity is operating or planning to
2 go into operation, the Commission shall submit
3 this determination to the House Ways and
4 Means Committee and Senate Finance Com-
5 mittee and recommend congressional action.
6 Once a Member introduces a joint resolution of
7 approval described in paragraph (5) in either
8 Chamber, the resolution would be subject to an
9 automatic discharge from both committees of
10 jurisdiction and the resolution would be decided
11 without debate in the Senate. Under this pro-
12 posal, the President would not have the unilat-
13 eral ability under this section to proactively
14 place tariffs on a wide range of products from
15 the third country, if the third country has not
16 previously been determined to be engaging in
17 an unfair trade practice as defined by this sec-
18 tion.

19 “(D) If a remedy is enacted by the Presi-
20 dent or Congress, the policy shall last between
21 three-to-eight years, subject to the discretion of
22 the Commission. One year before the remedy is
23 set to expire, the Commission shall review
24 whether the circumstance or threat of tariff
25 evasion has been diminished because of the ac-

1 tion, following the criteria the Commission
2 would be required to use to make the original
3 determination. If the circumstance or threat
4 has not diminished, the Commission may rec-
5 ommend continuing the remedy.

6 “(5) JOINT RESOLUTION OF APPROVAL.—

7 “(A) An action to adjust imports proposed
8 by the President in a report submitted to Con-
9 gress under paragraph (4)(C) shall have force
10 and effect only if, during the period of 60 cal-
11 endar days beginning on the date on which the
12 report is submitted, a joint resolution of ap-
13 proval is enacted pursuant to subparagraph
14 (B).

15 “(B) In this subparagraph, the term ‘joint
16 resolution of approval’ means only a joint reso-
17 lution of either House of Congress—

18 “(i) the title of which is as follows: ‘A
19 joint resolution approving the proposal of
20 the President to take an action relating to
21 the adjustment of imports entering into
22 the United States in such quantities or
23 under such circumstances as to threaten or
24 impair the national security.’; and

1 “(ii) the sole matter after the resolv-
2 ing clause of which is the following: ‘Con-
3 gress approves of the proposal of the Presi-
4 dent relating to the adjustment of imports
5 to protect the national security as de-
6 scribed in the report submitted to Con-
7 gress under section 301(e) of the Trade
8 Act of 1974 on _____ relating to
9 _____.’, with the first blank space
10 being filled with the appropriate date and
11 the second blank space being filled with a
12 short description of the proposed action.

13 “(C) During the period of 60 calendar
14 days provided for under subparagraph (A), a
15 joint resolution of approval may be introduced
16 in either House by any Member.

17 “(D)(i) A joint resolution of approval in-
18 troduced in the House of Representatives shall
19 be referred to the Committee on Ways and
20 Means.

21 “(ii) If the Committee on Ways and Means
22 has not reported the joint resolution of approval
23 within 10 calendar days after the date of refer-
24 ral, the Committee shall be discharged from
25 further consideration of the joint resolution.

1 “(iii) Beginning on the third legislative day
2 after the Committee on Ways and Means re-
3 ports the joint resolution of approval to the
4 House or has been discharged from further con-
5 sideration thereof, it shall be in order to move
6 to proceed to consider the joint resolution in the
7 House. All points of order against the motion
8 are waived. Such a motion shall not be in order
9 after the House has disposed of a motion to
10 proceed on the joint resolution. The previous
11 question shall be considered as ordered on the
12 motion to its adoption without intervening mo-
13 tion. The motion shall not be debatable. A mo-
14 tion to reconsider the vote by which the motion
15 is disposed of shall not be in order.

16 “(iv) The joint resolution of approval shall
17 be considered as read. All points of order
18 against the joint resolution and against its con-
19 sideration are waived. The previous question
20 shall be considered as ordered on the joint reso-
21 lution to final passage without intervening mo-
22 tion except 2 hours of debate equally divided
23 and controlled by the sponsor of the joint reso-
24 lution (or a designee) and an opponent. A mo-

1 tion to reconsider the vote on passage of the
2 joint resolution shall not be in order.

3 “(E)(i) A joint resolution of approval in-
4 troduced in the Senate shall be referred to the
5 Committee on Finance.

6 “(ii) If the Committee on Finance has not
7 reported the joint resolution of approval within
8 10 calendar days after the date of referral of
9 the joint resolution, the Committee shall be dis-
10 charged from further consideration of the joint
11 resolution and the joint resolution shall be
12 placed on the appropriate calendar.

13 “(iii) Notwithstanding Rule XXII of the
14 Standing Rules of the Senate, it is in order at
15 any time after the Committee on Finance re-
16 ports a joint resolution of approval or has been
17 discharged from consideration of such a joint
18 resolution to move to proceed to the consider-
19 ation of the joint resolution. The motion to pro-
20 ceed is not debatable. The motion is not subject
21 to a motion to postpone. A motion to reconsider
22 the vote by which the motion is agreed to or
23 disagreed to shall not be in order.

24 “(iv) Appeals from the decisions of the
25 Chair relating to the application of the rules of

1 the Senate to the procedure relating to a joint
2 resolution of approval shall be decided by the
3 Senate without debate.

4 “(F)(i) Except as provided in clause (ii), a
5 joint resolution of approval that has passed the
6 House of Representatives shall, when received
7 in the Senate, be referred to the Committee on
8 Finance for consideration in accordance with
9 subparagraph (D).

10 “(ii) If a joint resolution of approval was
11 introduced in the Senate before receipt of a
12 joint resolution of approval that has passed the
13 House of Representatives—

14 “(I) the joint resolution from the
15 House of Representatives shall, when re-
16 ceived in the Senate, be placed on the cal-
17 endar; and

18 “(II) the procedures in the Senate
19 with respect to a joint resolution of ap-
20 proval introduced in the Senate shall be
21 the same as if no joint resolution of ap-
22 proval had been received from the House
23 of Representatives, except that the vote on
24 passage in the Senate shall be on the joint

1 resolution that passed the House of Rep-
2 resentatives.

3 “(iii) If the Senate passes a joint resolu-
4 tion of approval before receiving a joint resolu-
5 tion of approval from the House of Representa-
6 tives, the joint resolution of the Senate shall be
7 held at the desk pending receipt of the joint
8 resolution from the House of Representatives.
9 Upon receipt of the joint resolution of approval
10 from the House of Representatives, such joint
11 resolution shall be deemed to be read twice,
12 considered, read the third time, and passed.

13 “(iv) If the Senate receives a joint resolu-
14 tion of approval from the House of Representa-
15 tives, and no joint resolution of approval has
16 been introduced in the Senate, the procedures
17 described in subparagraph (E) shall apply to
18 consideration of the joint resolution of the
19 House.

20 “(G) This subparagraph is enacted by
21 Congress—

22 “(i) as an exercise of the rulemaking
23 power of the Senate and the House of Rep-
24 resentatives, respectively, and as such is
25 deemed a part of the rules of each House,

1 respectively, and supersedes other rules
2 only to the extent that it is inconsistent
3 with such rules; and

4 “‘(ii) with full recognition of the con-
5 stitutional right of either House to change
6 the rules (so far as relating to the proce-
7 dure of that House) at any time, in the
8 same manner, and to the same extent as in
9 the case of any other rule of that House.’”.

10 (b) **RULE OF CONSTRUCTION.**—The amendment
11 made by subsection (a) is only intended to address invest-
12 ments from nonmarket entities into third countries for the
13 purposes of evading existing tariffs under section 301 of
14 the Trade Act of 1974 and does not change how existing
15 trade remedies under such section are administered.