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(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Trade Act of 1974 to authorize the United States Trade Representative to impose remedial measures with respect to certain entities that evade or may attempt to evade duties imposed with respect to nonmarket economy countries, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To amend the Trade Act of 1974 to authorize the United States Trade Representative to impose remedial measures with respect to certain entities that evade or may attempt to evade duties imposed with respect to nonmarket economy countries, 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 “Axing Nonmarket Tar-
5 iff Evasion Act” or the “ANTE Act”.

1 **SEC. 2. IMPOSITION BY TRADE REPRESENTATIVE OF REME-**
2 **DIAL MEASURES IN CASE OF EVASION OF DU-**
3 **TIES BY CERTAIN ENTITIES OF NONMARKET**
4 **ECONOMY COUNTRIES.**

5 (a) IN GENERAL.—Title III of the Trade Act of 1974
6 (19 U.S.C. 2411 et seq.) is amended by adding at the end
7 the following:

8 **“SEC. 311. REMEDIAL MEASURES REGARDING EVASION OF**
9 **DUTIES BY CERTAIN ENTITIES OF NON-**
10 **MARKET ECONOMY COUNTRIES.**

11 “(a) INQUIRY.—The Trade Representative may ini-
12 tiate an inquiry into whether a covered entity is estab-
13 lishing, planning to establish, or has established an invest-
14 ment in a third country that would avoid duties imposed
15 under section 301 with respect to a nonmarket economy
16 country.

17 “(b) REMEDIAL MEASURES.—

18 “(1) IN GENERAL.—If the Trade Representa-
19 tive makes an affirmative determination under sub-
20 section (a) with respect to a covered entity and the
21 investment of that covered entity in a third country,
22 the Trade Representative, subject to the specific di-
23 rection, if any, of the President, may impose a reme-
24 dial measure with respect to goods produced in the
25 third country by a covered entity, which may include
26 the imposition of a duty equal to not less than the

1 value of the duty placed on the relevant product of
2 the nonmarket economy country under section 301.

3 “(2) TIMING.—An action under paragraph (1)
4 may be taken with respect to a covered entity—

5 “(A) at any point during an investigation
6 under section 301 if the third-country invest-
7 ment of the covered entity has begun produc-
8 tion; and

9 “(B) prospectively, if the covered entity
10 has plans to establish production in the third
11 country.

12 “(c) MATTERS RELATING TO INQUIRIES.—

13 “(1) IN GENERAL.—An inquiry under sub-
14 section (a) may be self-initiated by the Trade Rep-
15 resentative or may be requested by interested per-
16 sons (as defined in section 301(d)(9)) or Congress.

17 “(2) INITIATION.—

18 “(A) IN GENERAL.—If an inquiry is re-
19 quested under paragraph (1) and the Trade
20 Representative determines there is a reasonable
21 indication that a covered entity is establishing,
22 planning to establish, or has already established
23 an investment in a third country that would
24 avoid duties imposed under section 301 with re-
25 spect to a nonmarket economy country, the

1 Trade Representative may initiate an inquiry
2 under subsection (a).

3 “(B) INFORMATION FROM OTHER AGEN-
4 CIES.—Upon request of the Trade Representa-
5 tive, the head of a Federal agency shall submit
6 to the Trade Representative any relevant infor-
7 mation of the agency that is necessary for the
8 Trade Representative to carry out an inquiry
9 under subsection (a).

10 “(3) DETERMINATION TO INITIATE INQUIRY.—
11 Not later than 45 days after receipt of a request
12 under paragraph (1), the Trade Representative shall
13 determine whether an inquiry under subsection (a) is
14 warranted.

15 “(4) DETERMINATION OF EVASION.—Not later
16 than 180 days after a determination under para-
17 graph (3) that an inquiry under subsection (a) is
18 warranted with respect to a covered entity, the
19 Trade Representative shall make an affirmative de-
20 termination of duty evasion if it is found that the
21 third-country investment—

22 “(A) is being established or acquired, or
23 has been established or acquired, by the covered
24 entity; and

1 “(B) is producing or planning to produce
2 a good subject to a duty under section 301.

3 “(d) ADDITIONAL MEASURES.—

4 “(1) IN GENERAL.—Based on the findings of
5 an inquiry under subsection (a) with respect to a
6 covered entity, the Trade Representative may, at the
7 specific direction, if any, of the President, unilater-
8 ally impose a measure—

9 “(A) with respect to the covered entity;
10 and

11 “(B) with respect to goods produced in a
12 third country pursuant to the investment of
13 that covered entity in the third country.

14 “(2) TIMING.—A measure may be imposed
15 under paragraph (1) with respect to a covered enti-
16 ty—

17 “(A) if the covered entity has begun pro-
18 duction; or

19 “(B) prospectively, if the covered entity
20 has immediate plans to establish production in
21 the third country.

22 “(3) DECISION NOT TO IMPOSE A MEASURE.—
23 If the Trade Representative does not impose a meas-
24 ure under paragraph (1) with respect to a covered
25 entity, the Trade Representative shall submit to

1 Congress a justification as to why such a measure
2 was not imposed, which shall include a description of
3 the social and economic impacts of not imposing the
4 measure.

5 “(4) DURATION OF MEASURE.—If a measure is
6 imposed by the Trade Representative under para-
7 graph (1) with respect to a covered entity, the meas-
8 ure shall last as long as the remedial action with re-
9 spect to the relevant nonmarket economy country
10 imposed under section 301 remains in effect, or as
11 long as the relevant nonmarket economy country has
12 a controlling interest in the third-country investment
13 of the covered entity, whichever terminates sooner.

14 “(e) DEFINITIONS.—In this section:

15 “(1) CONTROL.—The term ‘control’ has the
16 meaning given that term in section 800.208 of title
17 31, Code of Federal Regulations (as in effect on the
18 date of the enactment of this section).

19 “(2) COVERED ENTITY.—The term ‘covered en-
20 tity’—

21 “(A) means an entity owned, controlled,
22 subject to the jurisdiction or direction of, or op-
23 erated by a nonmarket economy country; and

24 “(B) includes any entity for which, on any
25 date during the most recent 12-month period,

1 not less than 25 percent of the equity interests
2 in that entity are held directly or indirectly by
3 one or more entities organized under the laws
4 of a nonmarket economy country, including
5 through—

6 “(i) interests in co-investment vehi-
7 cles, joint ventures, or similar arrange-
8 ments; or

9 “(ii) a derivative financial instrument
10 or contractual arrangement between the
11 entity and a nonmarket economy country,
12 including any such instrument or contract
13 that seeks to replicate any financial return
14 with respect to such entity or interest in
15 such entity.

16 “(3) NONMARKET ECONOMY COUNTRY.—The
17 term ‘nonmarket economy country’ means any coun-
18 try that is both—

19 “(A) determined to be a nonmarket econ-
20 omy country under section 771(18) of the Tar-
21 iff Act of 1930 (19 U.S.C. 1677(18); and

22 “(B) included on the priority watch list, as
23 defined in section 182(g)(3) (commonly known
24 as the ‘Special 301 Priority Watch List’).

1 “(4) TRADE REPRESENTATIVE.—The term
2 ‘Trade Representative’ means the United States
3 Trade Representative.”.

4 (b) CLERICAL AMENDMENT.—The table of contents
5 for the Trade Act of 1974 is amended by inserting after
6 the item relating to section 310 the following:

“Sec. 311. Remedial measures regarding evasion of duties by certain entities in
nonmarket economy countries.”.