

Crapo-Wyden Amendment / Trade Act of 2021

Sec. 70001. Short Title; Table of Contents

The title of this division is the “Trade Act of 2021.”

Sec. 70002. Appropriate Congressional Committees Defined

“Appropriate congressional committees” is defined to include the Senate Finance Committee and the House Ways and Means Committee.

TITLE I TRADING CONSISTENT WITH AMERICAN VALUES

Subtitle A. Preventing Importation of Goods Produced by Forced Labor

Sec. 71001. Investigations of Allegations of Goods Produced by Forced Labor

This section addresses forced labor in the supply chains of imports into the United States. Establishes a Forced Labor Division in CBP’s Office of Trade and requires it to provide quarterly briefings to Congress. Requires CBP, in consultation with the Department of State and the Department of Labor, to prioritize certain investigations, including instances of forced labor in which a government is complicit.

Sec. 71002. Preventing Importation of Seafood and Seafood Products Harvested or Produced Using Forced Labor

This section directs CBP, in coordination with NOAA, to (1) issue regulations regarding the verification of seafood imports to ensure no seafood or seafood product harvested or produced using forced labor is imported into the United States, and (2) develop a strategy for using Seafood Import Monitoring Program (SIMP) data to identify imports at risk of being harvested or produced using forced labor. Directs USTR to engage with U.S. trading partners on the development of seafood tracking and sustainability plans.

Subtitle B. Addressing Censorship and Barriers to Digital Trade

Sec. 71011. Censorship as a Trade Barrier

This section requires USTR to identify foreign trading partners of the United States that engage in acts, policies, or practices that disrupt digital trade, including coerced censorship and other e-commerce or digital practices that have the effect of promoting censorship or unlawful data access that disadvantages U.S. persons. Also requires USTR to designate the worst offenders of that list as priority foreign countries. Directs USTR to submit to Congress an annual report on actions taken under this section.

Sec. 71012. Designation of Official Responsible for Monitoring Unfair Trade Practices of Suppliers of Information and Communications Equipment

This section directs USTR to designate an official who would be responsible for monitoring unfair trade practices of information and communications equipment suppliers, including entities that are owned, controlled, or supported by a foreign government.

Sec. 71013. Negotiation of Digital Trade Agreements

This section directs USTR to consider digital trade agreements with like-minded countries to address digital barriers, deter censorship, support privacy and data protection, protect communications regarding human and worker rights, and promote speech. Includes requirements for consultation with Congress regarding the negotiations of any such agreement.

Subtitle C. Protecting Innovators and Consumers

Sec. 71021. Technical and Legal Support for Addressing Intellectual Property Rights Infringement Cases

This section authorizes any Federal agency to provide technical, legal, or other support to U.S. persons involved in an intellectual property rights infringement case regarding the People's Republic of China.

Sec. 71022. Improvement of Anti-Counterfeiting Measures

This section requires CBP to submit to Congress an annual report on seizures of counterfeit goods. Directs the CBP Commissioner to increase inspections of imports of goods from each source country identified in the report as one of the top source countries of counterfeit goods. Directs USTR to publish, and periodically update, determination criteria for USTR's Notorious Markets List of countries that deny adequate and effective IP protection. Also directs USTR to make its annual Special 301 country action plans public and publish progress assessments.

Sec. 71023. Reports on Chicken, Beef, and Other Meat Imports

This section directs the U.S. Department of Agriculture (USDA) to submit to Congress a report regarding its efforts to ensure the safety of imported processed chicken. Also directs USTR, in consultation with USDA, to submit to Congress a report on the 2015 ruling of the World Trade Organization on country-of-origin labeling (COOL) for beef, pork, and other meat products, including an assessment of its impacts on consumers, agricultural producers, and the overall security and resiliency of the food supply in the United States.

Sec. 71024. Joint Enforcement with Allies with Respect to Importation of Goods Made with Stolen Intellectual Property

This section directs the U.S. Trade Representative to enter negotiations with allies of the United States to stop the importation of goods made with stolen intellectual property into the United States and other countries allied with the United States. This section also requires a report on the status of the negotiations.

Sec. 71025. Sense of Congress and Report on Ensuring Reliable Supply of Rare Earth Minerals

This section requires a report on U.S. efforts to engage with other countries of the Quadrilateral Security Dialogue to promote shared investment and development of rare earth minerals, and description of the plans of the President to leverage partnership with these countries to produce a more reliable and secure global supply chain for rare earth minerals.

Subtitle D. Ensuring a Level Playing Field

Sec. 71031. Report on Manner and Extent to Which the Government of the People’s Republic of China Exploits Hong Kong to Circumvent United States Laws and Protections

This section requires USTR and the Secretary of State, in consultation with the Director of National Intelligence and the Secretaries of Commerce, Treasury, Defense, and Homeland Security, to submit a joint report to Congress regarding the People’s Republic of China’s use of Hong Kong to circumvent U.S. laws and protections, including export controls, antidumping and countervailing duties, Section 301 tariffs, sanctions, extradition, and civil liberties. Stipulates the report must be submitted in unclassified form to be made publicly available.

Sec. 71032. Assessment of Overcapacity of Industries in the People’s Republic of China

This section directs USTR, in consultation with the Secretary of Commerce, to submit to Congress an annual report on overcapacity of industries in the People’s Republic of China, including a determination on whether overcapacity exists as a result of industrial policy and, if applicable, a description of its effects on U.S. industry.

Sec. 71033. Duties of Interagency Center on Trade Implementation, Monitoring, and Enforcement

This section expands the duties of the Interagency Center on Trade Implementation, Monitoring, and Enforcement to include investigating practices of major trading partners that have systemic, diffuse impacts on the economy and U.S. workers, or systemic impacts on the resiliency of multiple critical domestic supply chains.

Sec. 71034. Briefing on Report Related to Process for Excluding Articles Imported from the People’s Republic of China from Certain Duties Imposed Under Section 301 of the Trade Act of 1974

This section requires the United States Trade Representative to brief Congress on the findings of a forthcoming GAO report regarding an audit into USTR’s exclusion process for imports from China subject to tariffs under Section 301 of the Trade Act of 1974.

TITLE II ENSURING RESILIENCY IN CRITICAL SUPPLY CHAINS

Sec. 72001. Facilitating Trade in Essential Supplies

This section establishes a Committee on Trade in Essential Supplies in the United States, chaired by USTR, which would be responsible for examining U.S. trade flows and supply chains for essential supplies, facilitating a whole-of-government approach to ensuring the U.S. has reliable access to essential supplies from its trading partners, and assisting relevant private U.S. enterprises in recognizing potential threats to their supply chains. Directs the Committee to submit to Congress a report identifying essential supplies, detailing U.S. access to essential supplies, examining potential vulnerabilities in supply chains, and making specific recommendations to ensure resilient and reliable supply chains. Provides the President with limited authority to reduce or suspend duties on any essential medical supply for no more than 180 days. Temporarily suspends duties on articles needed to combat the COVID-19 pandemic.

Sec. 72002. Supply Chain Database and Toolkit

This section directs the Secretary of Commerce to establish a database and online toolkit to aid in the identification of suppliers of certain inputs and finished products in the United States and abroad. Directs the Secretary of Commerce to submit a biannual report to Congress assessing the effectiveness of the database and online toolkit and recommending improvements. Directs the Secretary of Commerce to publish an annual public report setting forth general statistics related to foreign and domestic sourcing of inputs used by U.S. businesses, including an estimated percentage of total inputs obtained from foreign countries. Authorizes appropriations, including ongoing funding, for the purposes of carrying out this section, including the implementation of a public outreach campaign.

TITLE III IMPROVING TRANSPARENCY AND ADMINISTRATION OF TRADE PROGRAMS AND OVERSIGHT AND ACCOUNTABILITY OF TRADE AGENCIES

Sec. 73001. Process for Exclusion of Articles from Duties Under Section 301 of the Trade Act of 1974

This section creates a new process for USTR to follow when it imposes tariffs pursuant to an investigation under Section 301 of the Trade Act of 1974 (but not those pursuant to a WTO dispute settlement case). First, it generally requires USTR to consider the impact of proposed actions on United States entities and consumers. Second, if duties are to be imposed, it requires USTR to establish an exclusion process unless USTR certifies to Congress that such a process would impair its ability to resolve the underlying issue or it is impractical due to the low value of duties. The section also provides certain criteria for consideration in implementing the exclusion process and a process for providing information on this process. This section also sets forth an exclusions process specifically for tariffs imposed pursuant to USTR's Section 301 investigation into Chinese technology transfer, intellectual property, and innovation, as well as a renewal

requirement. Also requires USTR to reinstate all exclusions for entries filed on or before December 31, 2022, with retroactivity for certain liquidations and reliquidations.

Sec. 73002. Enhanced Congressional Oversight of the United States Trade Representative and the Department of Commerce

This section directs USTR to submit to Congress an annual report identifying the use of any funds from the Trade Enforcement Trust Fund, as well as a confidential biannual report describing implementation of the Phase I Deal with China and progress towards addressing the related issues identified as a result of its Section 301 investigation. Also requires USTR to provide to Congress the text of any initial proposal for an executive agreement or memorandum of understanding concerning trade relations with the People's Republic of China prior to submitting it to the Chinese government.

This section also directs the Commerce Department to submit to Congress an annual report identifying any antidumping or countervailing duty determination subject to a remand pursuant to an order from the Court of International Trade or a USMCA Chapter 10 panel, or that were found to be inconsistent with the United States' WTO obligations.

Sec. 73003. Establishment of Inspector General of the Office of the United States Trade Representative

This section directs the President to appoint an Inspector General (IG) for the Office of the USTR to increase transparency, accountability, and oversight.

Sec. 73004. Authority of U.S. Customs and Border Protection to Consolidate, Modify, or Reorganize Customs Revenue Functions

This section provides the CBP Commissioner with authority to consolidate, modify, or reorganize customs revenue functions, including with regard to relevant personnel and associated support staff. Also provides the CBP Commissioner with authority to request that the Office of Personnel Management (OPM) Director establish new position classification standards for any new positions established.

Sec. 73005. Protection from Public Disclosure of Personally Identifiable Information Contained in Manifests

This section directs the Treasury Secretary to ensure that any personally identifiable information, including Social Security Numbers and passport numbers, is removed from a vessel, aircraft, or vehicle manifest before providing it for public disclosure.

Sec. 73006. Sense of Congress on Leadership at World Trade Organization

This section expresses support for the WTO's role in fulfilling the needs of the United States and other free and open economies, while also recognizing the need for significant reform to restore its effectiveness. Expresses the sense of the Senate that the United States should continue to lead other WTO members in pursuing reform.

**TITLE IV
PROMOTING AMERICAN COMPETITIVENESS**

Subtitle A. Reauthorization and Reform of Generalized System of Preferences

Sec. 74001. Modification of Eligibility Criteria for Beneficiary Developing Countries

This section adds new country eligibility criteria to the Generalized System of Preferences (GSP). It includes mandatory criteria, which countries must meet to be eligible for GSP, on human rights and the environment. It includes discretionary criteria, which the President takes into consideration when designating a country as a GSP beneficiary, on the environment, women’s economic empowerment, rule of law, and digital trade. It updates the definition of “internationally recognized worker rights” to include the elimination of discrimination in occupation and employment, which aligns that definition with USMCA and other trade agreements.

Sec. 74002. Supplemental Reviews and Reporting

This section requires triennial country reviews and includes additional transparency requirements for administrative decisions made under the program. Includes new biennial assessments on how GSP promotes worker rights and women’s economic empowerment. Requires the USITC to study GSP utilization rates, rules of origin, and article eligibility rules.

Sec. 74003. Extension of Generalized System of Preferences

This section extends GSP until January 1, 2027 and includes a retroactivity provision allowing importers to get refunds on duties paid since the previous GSP expired on December 31, 2020.

Subtitle B. Temporary Duty Suspensions and Reductions

Sec. 74011-75461. Miscellaneous Tariff Bill

The Miscellaneous Tariff Bill (MTB) reduces or eliminates duties on certain imports recommended for inclusion by the U.S. International Trade Commission (USITC) as part of their MTB process. Tariff relief will be retroactive for 120 days and run through December 31, 2023.

Sec. 75471. American Manufacturing Competitiveness Act Reauthorization

This section reauthorizes the American Manufacturing Competitiveness Act (AMCA), which was first passed in 2016 and gives the USITC authority to conduct the MTB petition, review, and recommendation process. Under this section, the AMCA would be reauthorized for two more MTB cycles, the first beginning in 2022 and the second beginning in 2025.

TITLE V
AUTHORIZATION OF APPROPRIATIONS

Sec. 76001. Authorization of Additional Appropriations

This section authorizes the appropriation of such sums as may be necessary to carry out this title to the U.S. Trade Representative (USTR), the Department of Commerce, the Department of the Treasury, and U.S. Customs and Border Protection (CBP).

TITLE VI
CUSTOMS USER FEES

Sec. 77001. Extension of Customs User Fees