

Calendar No. **694**114TH CONGRESS
2^D SESSION**S. 2201**

To promote international trade, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 22, 2015

Mr. CORKER (for himself, Mr. CARDIN, and Mr. COONS) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

DECEMBER 1, 2016

Reported by Mr. CORKER, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

A BILL

To promote international trade, 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 “~~Global Gateways Trade~~
5 ~~Capacity Act of 2015~~”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) The expansion of international trade is vital
2 to the economic growth and national security of the
3 United States.

4 (2) Stable trading relationships promote secu-
5 rity and prosperity, and leadership by the United
6 States in international trade fosters the expansion of
7 open markets and democracy.

8 (3) United States aid to developing countries
9 for trade capacity building can have other positive
10 side effects such as promoting best practices, pro-
11 moting good governance, combating corruption, and
12 reforming legal regimes.

13 (4) Private sector-led trade and investment are
14 fundamental components of sustainable economic de-
15 velopment and growth. United States trade capacity
16 assistance should facilitate the reduction or elimi-
17 nation of non-tariff trade barriers that inhibit the
18 ability of developing countries to implement trade
19 agreements and participate in the global economy.

20 (5) Reducing trade transaction costs through
21 trade capacity improvements and trade facilitation
22 reforms will assist United States exporters and small
23 and medium-size enterprises reach new customers in
24 the developing world. Reducing these costs through
25 trade facilitation reforms will assist developing coun-

1 try businesses to trade and invest with each other
2 and enter into and take advantage of global supply
3 and value chains.

4 (6) According to the United States Trade Rep-
5 resentative, “the United States is the largest single-
6 country provider of trade-related assistance” (also
7 called trade capacity building assistance or “Aid for
8 Trade”).

9 (7) At the 9th Ministerial of the World Trade
10 Organization in Bali, Indonesia, in December 2013,
11 the 159 members of the World Trade Organization
12 (WTO) concluded the Trade Facilitation Agreement
13 (TFA), the first global World Trade Organization
14 trade agreement in 20 years. The Members of the
15 WTO amended the WTO agreement to include the
16 Trade Facilitation Agreement on November 27,
17 2014, and opened it for acceptance by members.

18 (8) The Trade Facilitation Agreement includes
19 measures and obligations designed to streamline cus-
20 toms procedures, increase customs transparency,
21 and speed the flow of goods across borders.

22 (9) According to the Organization for Economic
23 Cooperation and Development, full implementation
24 of the Trade Facilitation Agreement could reduce
25 trade costs by as much as an estimated 16.5 percent

1 of low income countries, 17 percent for lower-middle
2 income countries, 14.6 percent for upper-middle in-
3 come countries, and 11.8 percent for OECD coun-
4 tries.

5 (10) The Trade Facilitation Agreement con-
6 tains commitments by all World Trade Organization
7 members to implement commitments on trade facili-
8 tation under a timetable. The TFA includes commit-
9 ments by developed countries to assist developing
10 countries come into compliance with the obligations
11 of the TFA.

12 (11) According to the Government Account-
13 ability Office, in 2012, the United States Govern-
14 ment spent nearly \$1,000,000,000 in trade capacity
15 building efforts in 120 countries, which were imple-
16 mented by 20 United States Government depart-
17 ments and agencies.

18 (12) According to testimony provided by the
19 Administrator of the United States Agency for
20 International Development, there is no single coordi-
21 nating agency for trade capacity building activities
22 in the United States Government. Each agency has
23 its own processes for ensuring proper and effective
24 programming of its appropriated funds.

1 (13) To enhance the effort to eliminate non-tar-
2 iff barriers, a clear, whole-of-government strategy
3 with appropriate coordination is needed to leverage
4 limited trade capacity funds to achieve the ambitious
5 goals laid out in the Trade Facilitation Agreement.

6 **SEC. 3. DEFINITIONS.**

7 In this Act:

8 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
9 **TEES.**—The term “appropriate congressional com-
10 mittees” means—

11 (A) the Committee on Foreign Relations,
12 the Committee on Finance, and the Committee
13 on Appropriations of the Senate; and

14 (B) the Committee on Foreign Affairs, the
15 Committee on Ways and Means, and the Com-
16 mittee on Appropriations of the House of Rep-
17 resentatives.

18 (2) **PRIVATE SECTOR.**—The term “private sec-
19 tor” means for-profit United States businesses.

20 (3) **TRADE FACILITATION.**—The term “trade
21 facilitation” means United States bilateral, regional,
22 or multilateral assistance, the primary purpose of
23 which is to support the following activities:

24 (A) Implementation by developing coun-
25 tries of the World Trade Organization Trade

1 Facilitation Agreement agreed to at the 9th
2 Ministerial of the World Trade Organization
3 held in Bali in December 2013, including the
4 establishment or maintenance of a national
5 committee on trade facilitation.

6 (B) Assistance to reduce non-tariff barriers
7 to trade at national borders in developing coun-
8 tries, including technical assistance to reform
9 and modernize customs operations and proce-
10 dures and to expedite the movement, release,
11 and clearance of goods, including goods in tran-
12 sit.

13 (4) TRADE CAPACITY BUILDING ASSISTANCE.—
14 The term “trade capacity building assistance”
15 means United States bilateral, regional, or multilat-
16 eral assistance, the primary purpose of which is to
17 support the following activities:

18 (A) Technical assistance to assist devel-
19 oping countries in acceding, implementing, and
20 adhering to international trade agreements, in-
21 cluding trade policy development, trade negotia-
22 tions assistance, administrative management of
23 trade obligations, regulatory reform related to
24 trade agreements, and trade-related education.

1 (B) Technical assistance to improve gov-
2 ernance and transparency in developing coun-
3 tries with respect to imports, exports, and inter-
4 national investment, including improvement of
5 the investment climate and investor protections.

6 (C) Technical assistance to establish and
7 implement internationally recognized standards
8 in developing countries.

9 (D) Assistance that will contribute directly
10 and substantially to facilitating trade flows in a
11 recipient country.

12 **SEC. 4. STATEMENT OF POLICY.**

13 It is the policy of the United States—

14 (1) to identify developing country and regional
15 barriers to international trade and investment, set
16 priorities for the efficient use of limited United
17 States trade-related assistance, and focus on build-
18 ing local self-sustaining institutional capacity for ex-
19 panding international trade in developing countries;
20 and

21 (2) to further the national interests of the
22 United States by—

23 (A) expanding prosperity through the
24 elimination of foreign barriers to trade and in-
25 vestment;

1 (B) assisting developing country trading
 2 partners to identify and reduce barriers to the
 3 movement of goods in international commerce
 4 and to investment; and

5 (C) assisting developing country trading
 6 partners in undertaking reforms that will en-
 7 courage economic engagement and sustainable
 8 development.

9 **SEC. 5. TRADE CAPACITY ASSISTANCE, WHOLE-OF-GOVERN-**
 10 **MENT COORDINATION AND CONSULTATION.**

11 (a) **IN GENERAL.**—The Secretary of State shall have
 12 primary responsibility for coordinating a whole-of-govern-
 13 ment effort to expand the United States efforts in trade
 14 capacity building. The Secretary may delegate responsibil-
 15 ities under this Act to a senior Senate confirmed State
 16 Department official.

17 (b) **RESPONSIBILITIES.**—The Secretary shall—

18 (1) chair the interagency coordinating com-
 19 mittee established under subsection (c);

20 (2) develop and implement the joint strategic
 21 plan required under subsection (c)(4) for all United
 22 States trade-related and trade capacity building and
 23 related technical assistance programs;

24 (3) advise the departments and agencies des-
 25 ignated by the President to participate in the inter-

1 agency coordinating committee under this section in
2 identifying trade capacity needs and in the imple-
3 mentation of the joint strategic plan required under
4 subsection (c)(4);

5 (4) consult with the private sector in the devel-
6 opment of governmentwide trade capacity building
7 plans, including establishing a point of contact and
8 lead office within the Department of State to receive
9 private sector recommendations and comments con-
10 cerning trade capacity assistance, coordination, con-
11 sultations, and country-specific issues;

12 (5) consult with the Office of Management and
13 Budget regarding the administrative and human re-
14 sources needs that may be required to implement the
15 provisions of this Act; and

16 (6) report to Congress on trade capacity build-
17 ing programs and make recommendations, as appro-
18 priate, to Congress for improvements in trade capac-
19 ity building efforts.

20 (c) INTERAGENCY COORDINATING COMMITTEE.—

21 (1) ESTABLISHMENT.—The President shall es-
22 tablish an interagency coordinating committee to co-
23 ordinate and carry out the purposes of this Act.

24 (2) LEADERSHIP.—The interagency coordi-
25 nating committee shall be chaired by the Secretary

1 of State and the vice-chairs shall be the United
2 States Trade Representative and the Administrator
3 of the United States Agency for International Devel-
4 opment. The Secretary, United States Trade Rep-
5 resentative, and the Administrator may delegate re-
6 sponsibilities under this Act to an appropriate senior
7 Senate-confirmed official.

8 (3) MEMBERSHIP.—The President may appoint
9 to the interagency coordinating committee senior of-
10 ficials from the Department of Commerce, the De-
11 partment of Agriculture, the Department of the
12 Treasury, the Department of Homeland Security, in-
13 cluding at least one such senior official from U.S.
14 Customs and Border Protection, and any such other
15 relevant executive branch department or agency as
16 the President determines to be substantially involved
17 in trade capacity building and related assistance ef-
18 forts in developing countries.

19 (4) DEVELOPMENT OF JOINT STRATEGIC
20 PLAN.—The interagency coordinating committee
21 shall develop the joint strategic plan for all United
22 States capacity building and technical assistance
23 programs described under section 6.

24 (5) BUDGET REVIEW AND RECOMMENDATION
25 AUTHORITY.—The interagency coordinating com-

1 mittee, under the leadership of the Secretary of
2 State, shall, in coordination with the Director of the
3 Office of Management and Budget—

4 (A) review the expenditures of each of the
5 relevant executive branch departments and
6 agencies with respect to trade capacity building
7 assistance and trade facilitation assistance; in
8 consultation with the head each such depart-
9 ment or agency;

10 (B) evaluate the consistency of such ex-
11 penditures with the policies and plans set forth
12 by the Secretary and the interagency coordi-
13 nating committee under this Act; and

14 (C) report and make recommendations to
15 the President, through the Director of the Of-
16 fice of Management and Budget, on appropriate
17 budget allocations to each such agency with re-
18 spect to trade capacity building assistance and
19 trade facilitation assistance.

20 (6) REPORT TO CONGRESS ON TRADE CAPACITY
21 DEFINITION.—Not later than 180 days after the
22 date of the enactment of this Act, the interagency
23 coordinating committee shall recommend to Con-
24 gress a common definition of trade capacity building
25 assistance for the purpose of prioritizing, coordi-

1 nating, and categorizing United States Government-
2 wide trade capacity building assistance programs
3 and funding. Based upon the trade capacity building
4 definition required by this paragraph, not later than
5 one year after the date of the enactment of this Act,
6 the interagency coordinating committee shall provide
7 Congress recommendations as to prioritizing trade
8 capacity building foreign assistance programs based
9 on their respective measurable effectiveness to facili-
10 tate trade in recipient countries.

11 (d) TRADE CAPACITY ADVISORY COMMITTEE.—

12 (1) ESTABLISHMENT OF TCAC.—The Secretary
13 of State shall establish a trade capacity advisory
14 committee with selected representatives of the pri-
15 vate sector and other organizations with direct and
16 relevant operational experience in importing from
17 and exporting into developing countries, as appro-
18 priate, to provide comment and advice on priorities
19 for trade capacity initiatives. The Secretary may
20 also appoint representatives from select nonprofit or-
21 ganizations to the advisory committee if those rep-
22 resentatives can demonstrate both a presence in and
23 relevant operational or programmatic experience
24 with trade capacity building efforts in developing
25 countries.

1 (2) MEETINGS.—The trade capacity advisory
2 committee shall convene at least twice annually or
3 more often as necessary at the call of the Secretary.

4 (3) STRATEGIC PLANNING ADVICE.—The trade
5 capacity advisory committee shall advise the Sec-
6 retary of State on the trade capacity building prior-
7 ities of the private sector, including assisting the
8 Secretary in soliciting private sector advice, includ-
9 ing in support of the development of the trade ca-
10 pacity component of country plans, the selection of
11 developing countries for the trade facilitation pilot
12 program described in section 7, implementation of
13 strategic planning, and advancing the overall mission
14 and goals of United States trade capacity assistance.

15 (4) APPLICABILITY OF THE FEDERAL ADVISORY
16 COMMITTEE ACT TO THE TRADE CAPACITY ADVISORY
17 COMMITTEE.—The provisions of the Federal Advi-
18 sory Committee Act (5 U.S.C. App.) shall apply to
19 the trade capacity advisory committee, except as fol-
20 lows:

21 (A) Subsections (a) and (b) of section 10
22 of such Act (relating to open meetings and
23 availability of information) shall not apply.

1 (B) Section 11 of such Act (relating to the
2 availability of transcripts of meetings) shall not
3 apply.

4 (C) Section 14(a)(2) of such Act (relating
5 to termination) shall be applied by striking
6 “two-year period” and inserting “four-year pe-
7 riod”.

8 **SEC. 6. BIENNIAL JOINT STRATEGIC PLAN FOR TRADE CA-**
9 **PACITY BUILDING.**

10 (a) **JOINT STRATEGIC PLAN.**—The interagency co-
11 ordinating committee created under section 5(a)(3), tak-
12 ing into account the embassy mission strategic plan re-
13 ports and recommendations on trade capacity building as-
14 sistance and trade facilitation assistance, as appropriate,
15 shall develop a biennial governmentwide joint strategic
16 plan for trade capacity building in developing countries
17 that establishes detailed and clear objectives, common
18 metrics, and specific goals for the efficient delivery of
19 United States trade-related assistance, including—

20 (1) improving the effectiveness and efficiency of
21 capacity building and related technical assistance by
22 improving coordination among—

23 (A) the various United States Government
24 agencies providing assistance, including em-
25 bassy teams; and

1 (B) international trade capacity building
2 and technical assistance donors, including ef-
3 forts to promote the best use of resources and
4 avoid duplication, to share best practices, and
5 to pursue regional solutions and common ap-
6 proaches, as appropriate;

7 (2) improving consultation with the private sec-
8 tor to incorporate its operational expertise and expe-
9 rience navigating the full range of trade barriers in
10 recipient foreign countries and with respect to set-
11 ting priorities and target particular barriers for re-
12 form;

13 (3) identifying and addressing structural weak-
14 nesses, systemic flaws, or other impediments to the
15 effectiveness of United States capacity building and
16 related technical assistance across the Federal agen-
17 cies and departments with recommendations for ac-
18 tion;

19 (4) setting priorities for trade capacity building
20 to focus resources on developing countries where as-
21 sistance can deliver the best value in identifying and
22 eliminating barriers to trade and investment in par-
23 ticipating foreign countries;

24 (5) developing appropriate performance meas-
25 ures and establishing yearly targets to monitor and

1 assess progress towards such targets, including
2 measures to terminate unsuccessful programs; and

3 ~~(6) providing estimates of the resources nec-~~
4 ~~essary to fulfill the priorities identified by the com-~~
5 ~~mittee.~~

6 ~~(b) SUBMISSION OF PLAN.—Not later than one year~~
7 ~~after the date of the enactment of this Act, and biennially~~
8 ~~thereafter, the interagency coordinating committee shall~~
9 ~~submit the joint strategic plan to the President, the appro-~~
10 ~~priate congressional committees, and cleared advisors on~~
11 ~~the Trade Capacity Advisory Committee.~~

12 ~~(c) REPORT TO CONGRESS.—The Secretary shall~~
13 ~~submit the joint strategic plan required under this section~~
14 ~~to the appropriate congressional committees and to cleared~~
15 ~~advisors on the trade capacity advisory committee with~~
16 ~~any appropriate recommendations on changes to trade ca-~~
17 ~~capacity assistance priorities or funding.~~

18 **SEC. 7. TRADE FACILITATION PILOT PROGRAM.**

19 ~~(a) IN GENERAL.—The Secretary of State shall es-~~
20 ~~tablish a pilot program—~~

21 ~~(1) to coordinate a whole-of-government effort~~
22 ~~to expand United States efforts in trade facilitation~~
23 ~~assistance for developing countries, consistent with~~
24 ~~the policies set forth in section 4; and~~

1 (2) to direct the expenditure of funding author-
2 ized to be appropriated under this section to trade
3 facilitation assistance programs in countries des-
4 igned under this section. In determining which re-
5 cipient countries should receive trade facilitation
6 funding, the Secretary shall take into account the
7 recommendations of the United States Trade Rep-
8 resentative with respect to recipient country progress
9 in, and commitment to, implementing the commit-
10 ments under the World Trade Organization Trade
11 Facilitation Agreement, including the establishment
12 and maintenance of a national committee on trade
13 facilitation and other relevant trade obligations and
14 commitments.

15 (b) MISSION TRADE FACILITATION ASSISTANCE
16 PLANNING.—

17 (1) IN GENERAL.—United States embassies in
18 trade facilitation pilot countries, as designated by
19 the Secretary of State pursuant to subsection (c),
20 shall, on a biennial basis, develop a specific trade fa-
21 cilitation assistance component for their mission
22 plan and shall provide such component to the chair
23 of the interagency coordinating committee as estab-
24 lished under section 5(e).

1 (2) ~~SPECIFIC REQUIREMENTS.~~—The trade fa-
2 cilitation component of mission plans required by
3 this subsection shall include recommendations for
4 priority areas for trade capacity assistance to be
5 provided based on, among other things, an assess-
6 ment of the relative costs of addressing barriers to
7 trade and the anticipated benefits of assistance to
8 remove such barriers.

9 (c) ~~ELIGIBLE COUNTRIES.~~—

10 (1) ~~IN GENERAL.~~—The Secretary of State is
11 authorized to designate trade facilitation pilot devel-
12 oping countries to participate in the trade facilita-
13 tion assistance pilot program established under this
14 section.

15 (2) ~~SELECTION CRITERIA.~~—In designating
16 countries pursuant to paragraph (1), the Secretary
17 shall prioritize countries recommended by chiefs of
18 mission and determined by the Secretary, taking
19 into account comments from the Trade Capacity Ad-
20 visory Committee and recommendations from the
21 interagency coordinating committee, to be able to
22 substantially benefit from expanded United States
23 trade capacity assistance and to have demonstrated
24 the political will to effectively and sustainably imple-
25 ment such assistance.

1 (3) MINIMUM NUMBER.—

2 (A) IN GENERAL.—The Secretary shall
3 designate not fewer than five eligible developing
4 countries to participate in the trade facilitation
5 pilot program established under this section
6 within the first year after the date of the enact-
7 ment of this Act and not fewer than 15 pilot
8 countries within the five-year term of the pro-
9 gram.

10 (B) CONSULTATION.—The Secretary shall
11 consult with the interagency coordinating com-
12 mittee and the trade capacity advisory com-
13 mittee to inform the designation of trade facili-
14 tation pilot developing countries to participate
15 in the priority trade capacity building pilot pro-
16 gram established under this section.

17 (d) TRADE FACILITATION ASSISTANCE.—

18 (1) USE OF FUNDS.—Funds authorized to be
19 appropriated under this section may be used to ex-
20 pand and improve trade facilitation measures related
21 to import, export, or transit formalities and proce-
22 dures, including increasing the throughput rate of
23 imports and exports and reforming and modernizing
24 customs operations and procedures, as well as imple-
25 menting commitments made under the World Trade

1 Organization Trade Facilitation Agreement in pilot
2 countries, as determined by the the Secretary of
3 State.

4 (2) AUTHORIZATION OF APPROPRIATIONS.—

5 There is authorized to be appropriated to the Sec-
6 retary of State \$50,000,000 for each of fiscal years
7 2016 through 2021 to carry out activities under this
8 section.

9 (3) AVAILABILITY.—Amounts appropriated pur-

10 suant to the authorization of appropriations in para-
11 graph (2) are authorized to remain available until
12 expended.

13 (4) REPORT.—Not later than halfway through

14 the five-year term of the pilot program established
15 under this section, the Secretary shall submit to the
16 appropriate congressional committees a report to
17 summarize how funding has been prioritized, sum-
18 marize the trade facilitation projects in each of the
19 designated countries, provide metrics of the progress
20 made to date, and highlight additional trade facilita-
21 tion assistance programs that will be funded in addi-
22 tional countries through the remainder of the pilot
23 program. The Secretary shall prepare a similar re-
24 port six months before the expiration of the pilot
25 program and provide Congress with recommenda-

1 tions as to whether the pilot program should be con-
 2 tinued and how it could be improved.

3 ~~(5) TERMINATION OF PILOT PROGRAM.—~~The
 4 pilot program under subsection (a) shall terminate
 5 on the date that is five years after the date of the
 6 enactment of this Act.

7 **SEC. 8. MISSION RESPONSIBILITIES FOR TRADE CAPACITY**
 8 **BUILDING.**

9 Section 207 of the Foreign Service Act of 1980 (~~22~~
 10 ~~U.S.C. 3927~~) is amended by adding at the end the fol-
 11 lowing new section:

12 ~~“(d) TRADE CAPACITY ASSISTANCE.—~~

13 ~~“(1) COORDINATION AND SUPERVISION RE-~~
 14 ~~SPONSIBILITY.—~~The chief of mission shall have re-
 15 sponsibility for coordinating and supervising the im-
 16 plementation of all United States trade-related and
 17 trade capacity assistance among all United States
 18 Government departments and agencies present in
 19 that country (except for assistance under the control
 20 of a United States area military commander).

21 ~~“(2) AUTHORITY OVER SPENDING.—~~Consistent
 22 with the purposes of the Global Gateways Trade Ca-
 23 pacity Act of 2014 and except as provided in para-
 24 graph (4), no funds appropriated or otherwise made
 25 available to any department or agency of the United

1 States Government for trade capacity building as-
2 sistance, as defined by section 3 of such Act, may
3 be spent outside the United States without author-
4 ization from the relevant chief of mission (except for
5 assistance under the control of a United States area
6 military commander).

7 “(3) DELEGATION.—The chief of mission may
8 delegate express authorization under this subsection
9 to senior mission staff, as appropriate and nec-
10 essary, to achieve the purposes of the Global Gate-
11 ways Trade Capacity Act of 2015.

12 “(4) DE MINIMIS EXCEPTION.—The chief of
13 mission is authorized to set a de minimis level, not
14 to exceed \$25,000, for expenditures not requiring
15 the approval of the chief of mission.

16 “(5) TRADE CAPACITY MISSION TEAM.—The
17 chief of mission shall form a trade capacity mission
18 team made up of appropriate embassy staff with re-
19 sponsibility for developing—

20 “(A) a country trade capacity building as-
21 sistance survey of local country barriers to
22 trade and investment; and

23 “(B) recommendations for prioritizing and
24 coordinating effective use of trade capacity as-
25 sistance within that country.”

1 **SEC. 9. PRIVATE SECTOR CONSULTATION AND COORDINA-**
2 **TION.**

3 (a) **CONSULTATION WITH PRIVATE SECTOR BY EM-**
4 **BASSY.**—In developing the trade capacity embassy mission
5 plans on trade capacity, the trade capacity mission team
6 shall convene local representatives of the United States
7 private sector to consult on issues affecting trade capacity
8 at the borders of participating countries and take into ac-
9 count the private sector’s operational expertise and experi-
10 ence confronting the trade barriers in each country as well
11 as its recommendations for reform and best practices.

12 (b) **INCLUSION OF PRIVATE SECTOR COMMENTS IN**
13 **MISSION PLANS.**—Written comments from local United
14 States private sector representatives shall be included in
15 the trade capacity component of mission plans submitted
16 by the chief of mission to the Secretary of State, with rec-
17 ommendations and comments from the capacity mission
18 team for the purpose of informing the development of the
19 joint strategic plan on trade capacity priorities and rec-
20 ommended funding.

21 (c) **DESIGNATED EMBASSY POINT OF CONTACT FOR**
22 **PRIVATE SECTOR CONSULTATION.**—The chief of mission
23 shall designate an appropriate point of contact within the
24 embassy who shall receive recommendations from appro-
25 priate private sector representatives regarding the imple-
26 mentation of the strategic plan required under section 6

1 and ongoing trade barriers negatively impacting priority
2 trade capacity assistance programs. The chief of mission
3 shall ensure that the designated point of contact shall be
4 made reasonably available for consultations with and to
5 receive complaints from appropriate private sector rep-
6 resentatives and to receive recommendations with respect
7 to country-specific issues that may arise that will
8 foreseeably disrupt trade.

9 (d) PUBLIC HEARINGS WITH INTERESTED PAR-
10 TIES.—For the purposes of developing the joint strategic
11 plan, the Secretary of State shall hold public meetings
12 from time to time for the purpose of obtaining input from
13 interested parties.

14 (e) REQUIREMENT TO PROTECT BUSINESS CON-
15 FIDENTIAL INFORMATION.—

16 (1) IN GENERAL.—The Secretary of State shall
17 protect from disclosure any proprietary information
18 submitted by the private sector representative and
19 marked as business confidential information unless
20 the party submitting the confidential business infor-
21 mation had notice, at the time of submission, that
22 such information would be released by the Secretary,
23 or such party subsequently consents to the release of
24 the information. To the extent business confidential
25 information is provided, a nonconfidential version of

1 the information shall also be provided, in which the
 2 business confidential information is summarized or,
 3 if necessary, deleted.

4 (2) TREATMENT AS TRADE SECRETS.—Propri-
 5 etary information submitted by a private party in
 6 accordance with this Act shall be considered to be a
 7 matter falling within the meaning of trade secrets
 8 and commercial or financial information exemption
 9 under section 552(b)(4) of title 5, United States
 10 Code, and shall be exempt from disclosure without
 11 the express approval of the private party.

12 **SEC. 10. LIMITATIONS AND CONFORMING MEASURES.**

13 (a) RULE OF CONSTRUCTION.—The President shall
 14 implement this Act in a manner consistent with the duties
 15 and responsibilities of the Office of the United States
 16 Trade Representative as the agency with primary respon-
 17 sibility for developing, and for coordinating the implemen-
 18 tation of, United States international trade policy under
 19 section 141 of the Trade Act of 1974 (19 U.S.C. 2171).

20 (b) EXCEPTION, QUALIFICATION.—Section 660(b) of
 21 the Foreign Assistance Act of 1961 (22 U.S.C. 2420(b))
 22 is amended—

23 (1) in paragraph (7), by striking the period at
 24 the end and inserting “; or”; and

1 (2) by adding at the end the following new
2 paragraph:

3 “~~(8)~~ with respect to trade facilitation assist-
4 ance, including training and technical assistance,
5 provided under section 7 of the Global Gateways
6 Trade Capacity Act of 2015 to customs and trans-
7 portation authorities and personnel in recipient
8 countries to implement priority trade capacity build-
9 ing assistance as defined by the Global Gateways
10 Trade Capacity Act of 2015.”.

11 **SEC. 11. PROGRESS REPORT.**

12 Not later than 2 years and 4 years after the date
13 of the enactment of this Act, the President shall submit
14 to the appropriate committees and cleared advisors of the
15 trade capacity advisory committee a report on progress
16 made in implementing the provisions of this Act that in-
17 cludes the following:

18 (1) A description of implementation of the stra-
19 tegic plans required under section 6.

20 (2) A description of progress by recipient coun-
21 tries receiving priority trade building assistance in
22 implementing the World Trade Organization Trade
23 Facilitation Agreement.

24 (3) A description of progress made in working
25 with foreign countries to coordinate trade capacity

1 building donor activities to ensure the effectiveness
2 and reduce duplication of capacity building and tech-
3 nical assistance.

4 (4) Recommendations for statutory, regulatory,
5 and funding changes to improve the effectiveness of
6 the whole-of-government approach to prioritizing
7 and delivering trade capacity building assistance.

8 (5) An analysis of efforts made to improve co-
9 ordination among the relevant departments and
10 agencies with respect to sharing information and to
11 improve performance metrics on planning and deliv-
12 ering trade capacity and trade facilitation assistance.

13 (6) A description of efforts to improve consulta-
14 tion, coordination, and information sharing between
15 the relevant departments and agencies and the pri-
16 vate sector on improving performance metrics, co-
17 ordination, and effectiveness of trade capacity and
18 trade facilitation assistance.

19 (7) An assessment of the successes and short-
20 comings of the efforts of the Federal Government to
21 focus resources and programming with respect to
22 trade capacity and facilitation assistance.

23 (8) Recommendations, if any and as appro-
24 priate, for any changes in statutes, regulations, or
25 funding levels that the interagency advisory com-

1 mittee considers would significantly improve the per-
2 formance metrics, coordination, effectiveness, or effi-
3 ciency of the efforts of the Federal Government to
4 deliver trade capacity building and trade facilitation
5 assistance, including through the elimination or con-
6 solidation of duplicative programs or initiatives.

7 (9) A description of the progress made in
8 strengthening the rule of law, including the capacity
9 of recipient countries to implement, comply with,
10 and enforce trade agreements.

11 (10) A description of the successes and chal-
12 lenges in sharing with donor and recipient countries
13 information and best practices relating to trade ca-
14 pacity building and trade facilitation assistance.

15 (11) A description of the progress made in
16 minimizing duplicative efforts, materials, facilities,
17 and procedures of the Federal agencies and depart-
18 ments responsible for the delivery of trade capacity
19 building and trade facilitation assistance.

20 (12) Recommendations, if any and as appro-
21 priate, on how to enhance the efficiency and consist-
22 ency with which Federal funds and resources are ex-
23 pended to deliver trade capacity building and trade
24 facilitation assistance, including the extent to which

1 agencies and departments have utilized existing per-
2 sonnel, materials, technologies, and facilities.

3 ~~(13) An explanation of methods developed to~~
4 ~~measure performance, results, coordination, duplica-~~
5 ~~tion, and sustainability of trade capacity and trade~~
6 ~~facilitation assistance programs across agencies and~~
7 ~~how best practices are shared across agencies.~~

8 **SECTION 1. SHORT TITLE.**

9 *This Act may be cited as the “Global Gateways Trade*
10 *Capacity Act of 2016”.*

11 **SEC. 2. FINDINGS.**

12 *Congress makes the following findings:*

13 *(1) Productive international trading relation-*
14 *ships are vital to the economic growth and national*
15 *security of the United States.*

16 *(2) Stable trading relationships promote security*
17 *and prosperity, and leadership by the United States*
18 *in international trade fosters the expansion of open*
19 *markets and democracy and can help level the play-*
20 *ing field for United States businesses, workers, and*
21 *consumers in the global marketplace.*

22 *(3) United States aid to developing countries for*
23 *trade capacity building can have other positive side*
24 *effects such as promoting best practices, promoting*

1 *good governance, combating corruption, promoting*
2 *human rights, and reforming legal regimes.*

3 *(4) Private sector-led trade and investment are*
4 *fundamental components of sustainable economic de-*
5 *velopment and growth. United States trade capacity*
6 *assistance should facilitate the reduction or elimi-*
7 *nation of non-tariff trade barriers that inhibit the*
8 *ability of developing countries to implement trade*
9 *agreements and participate in the global economy.*

10 *(5) Reducing trade transaction costs through*
11 *trade capacity improvements and trade facilitation*
12 *reforms will assist United States exporters and small*
13 *and medium size enterprises reach new customers in*
14 *the developing world. Reducing these costs through*
15 *trade facilitation reforms will assist developing coun-*
16 *try businesses to trade and invest with each other and*
17 *enter into and take advantage of global supply and*
18 *value chains.*

19 *(6) According to the United States Trade Rep-*
20 *resentative, “the United States is one of the largest*
21 *single-country providers of trade-related assistance”*
22 *(also called trade capacity building assistance or*
23 *“Aid for Trade”).*

24 *(7) At the 9th Ministerial of the World Trade*
25 *Organization in Bali, Indonesia, in December 2013,*

1 *the 159 members of the World Trade Organization*
2 *(WTO) concluded the Trade Facilitation Agreement*
3 *(TFA), the first global World Trade Organization*
4 *trade agreement in 20 years. The Members of the*
5 *WTO amended the WTO agreement to include the*
6 *Trade Facilitation Agreement on November 27, 2014,*
7 *and opened it for acceptance by members.*

8 *(8) The Trade Facilitation Agreement includes*
9 *measures and obligations designed to streamline cus-*
10 *tom procedures, increase customs transparency, and*
11 *speed the flow of goods across borders.*

12 *(9) According to the Organization for Economic*
13 *Cooperation and Development (OECD), full imple-*
14 *mentation of the Trade Facilitation Agreement could*
15 *reduce trade costs by as much as an estimated 16.5*
16 *percent of low income countries, 17 percent for lower-*
17 *middle income countries, 14.6 percent for upper-mid-*
18 *dle income countries, and 11.8 percent for OECD*
19 *countries.*

20 *(10) The OECD has noted that trade barriers*
21 *created by ineffective policies and burdensome rules*
22 *and procedures can constitute an important incentive*
23 *to engage in corrupt behavior, and therefore all rel-*
24 *evant stakeholders have an interest in elaborating and*
25 *promoting mutually supportive trade integrity and*

1 *facilitation policies that would remove ineffective*
2 *trade barriers while maintaining effective checks and*
3 *balances on fraud and corruption.*

4 *(11) The Trade Facilitation Agreement contains*
5 *commitments by all World Trade Organization mem-*
6 *bers to implement commitments on trade facilitation*
7 *under a timetable. The TFA includes commitments by*
8 *developed countries to assist developing countries*
9 *come into compliance with the obligations of the TFA.*

10 *(12) According to the Government Accountability*
11 *Office, in 2012, the United States Government spent*
12 *nearly \$1,000,000,000 in trade capacity building ef-*
13 *forts in 120 countries, which were implemented by 20*
14 *United States Government departments and agencies.*

15 *(13) According to testimony provided by the Ad-*
16 *ministrator of the United States Agency for Inter-*
17 *national Development, there is no single coordinating*
18 *agency for trade capacity building activities in the*
19 *United States Government. Each agency has its own*
20 *processes for ensuring proper and effective program-*
21 *ming of its appropriated funds.*

22 *(14) To enhance the effort to eliminate non-tariff*
23 *barriers, a clear, whole-of-government strategy with*
24 *appropriate coordination is needed to leverage limited*
25 *trade capacity funds to achieve the ambitious goals*

1 *laid out in the Trade Facilitation Agreement and to*
2 *realize the potential benefits of productive inter-*
3 *national trading relationships for United States busi-*
4 *nesses, workers, consumers, and foreign trading part-*
5 *ners.*

6 **SEC. 3. DEFINITIONS.**

7 *In this Act:*

8 (1) *APPROPRIATE CONGRESSIONAL COMMIT-*
9 *TEES.—The term “appropriate congressional commit-*
10 *tees” means—*

11 (A) *the Committee on Foreign Relations, the*
12 *Committee on Finance, and the Committee on*
13 *Appropriations of the Senate; and*

14 (B) *the Committee on Foreign Affairs, the*
15 *Committee on Ways and Means, and the Com-*
16 *mittee on Appropriations of the House of Rep-*
17 *resentatives.*

18 (2) *PRIVATE SECTOR.—The term “private sec-*
19 *tor” means for-profit United States businesses.*

20 (3) *TRADE FACILITATION ASSISTANCE.—The*
21 *term “trade facilitation assistance” means United*
22 *States bilateral, regional, or multilateral assistance,*
23 *the primary purpose of which is to support the fol-*
24 *lowing activities:*

1 (A) *Implementation by developing countries*
2 *of the World Trade Organization Trade Facilita-*
3 *tion Agreement agreed to at the 9th Ministerial*
4 *of the World Trade Organization held in Bali in*
5 *December 2013, including the establishment or*
6 *maintenance of a national committee on trade*
7 *facilitation.*

8 (B) *Assistance to reduce non-tariff barriers*
9 *to trade at national borders in developing coun-*
10 *tries, including technical assistance to reform*
11 *and modernize customs operations and proce-*
12 *dures and to expedite the movement, release, and*
13 *clearance of goods, including goods in transit.*

14 (4) *TRADE CAPACITY BUILDING ASSISTANCE.—*
15 *The term “trade capacity building assistance” means*
16 *United States bilateral, regional, or multilateral as-*
17 *sistance, the primary purpose of which is to support*
18 *the following activities:*

19 (A) *Technical assistance to assist developing*
20 *countries in acceding, implementing, and adher-*
21 *ing to international trade agreements, including*
22 *trade policy development, trade negotiations as-*
23 *sistance, administrative management of trade*
24 *obligations, regulatory reform related to trade*
25 *agreements, and trade-related education.*

1 (B) *Technical assistance to improve govern-*
 2 *ance and transparency in developing countries*
 3 *with respect to imports, exports, and inter-*
 4 *national investment, including improvement of*
 5 *the investment climate and investor protections.*

6 (C) *Technical assistance to enable devel-*
 7 *oping country micro-, small-, and medium-size*
 8 *enterprises to trade more efficiently.*

9 (D) *Technical assistance to establish and*
 10 *implement of internationally-recognized stand-*
 11 *ards in developing countries.*

12 (E) *Assistance that will contribute directly*
 13 *and substantially to facilitating trade flows in a*
 14 *recipient country*

15 **SEC. 4. STATEMENT OF POLICY.**

16 *It is the policy of the United States—*

17 (1) *to identify developing country and regional*
 18 *barriers to international trade and investment, set*
 19 *priorities for the efficient use of limited United States*
 20 *trade-related assistance, and focus on building self-*
 21 *sustaining institutional capacity for expanding inter-*
 22 *national trade in developing countries, consistent*
 23 *with international obligations and commitments; and*

24 (2) *further the national interests of the United*
 25 *States by—*

1 (A) expanding prosperity through the elimi-
2 nation of foreign barriers to trade and invest-
3 ment;

4 (B) assisting developing country trading
5 partners to identify and reduce barriers to the
6 movement of goods in international commerce
7 and to investment;

8 (C) assisting developing country trading
9 partners in undertaking reforms that will en-
10 courage economic engagement and sustainable
11 development; and

12 (D) assisting private sector participants in
13 developing countries engage in reform efforts and
14 integrate into global supply chains.

15 **SEC. 5. TRADE CAPACITY ASSISTANCE, WHOLE-OF-GOVERN-**
16 **MENT COORDINATION AND CONSULTATION.**

17 (a) *IN GENERAL.*—The Secretary of State, in consulta-
18 tion with the Administrator of the United States Agency
19 for International Development and the United States Trade
20 Representative, shall have primary responsibility for co-
21 ordinating a whole-of-government effort to expand United
22 States efforts in trade capacity building, provided such ef-
23 forts support existing trade and economic development poli-
24 cies. The Secretary may delegate responsibilities under this
25 Act to a senior Senate confirmed State Department official.

1 **(b) RESPONSIBILITIES.**—*The Secretary shall—*

2 (1) *chair the interagency coordinating committee*
3 *established under subsection (c);*

4 (2) *develop and implement the joint strategic*
5 *plan required under subsection (c)(4) for all United*
6 *States trade-related and trade capacity building and*
7 *related technical assistance programs, in consultation*
8 *with the coordinating committee established under*
9 *subsection (c);*

10 (3) *advise the departments and agencies des-*
11 *ignated by the President to participate in the inter-*
12 *agency coordinating committee under this section in*
13 *identifying trade capacity needs and in the imple-*
14 *mentation of the joint strategic plan required under*
15 *subsection (c)(4)*

16 (4) *consult with the private sector in the develop-*
17 *ment of government-wide trade capacity building*
18 *plans, including establishing a point of contact and*
19 *lead office within the Department of State to receive*
20 *private sector recommendations and comments con-*
21 *cerning trade capacity assistance, coordination, con-*
22 *sultations, and country-specific issues;*

23 (5) *consult with the Office of Management and*
24 *Budget regarding the administrative and human re-*

1 *sources needs that may be required to implement the*
2 *provisions of this Act; and*

3 *(6) report to Congress on trade capacity building*
4 *programs and make recommendations, as appro-*
5 *priate, to Congress for improvements in trade capac-*
6 *ity building efforts.*

7 *(c) INTERAGENCY COORDINATING COMMITTEE.—*

8 *(1) ESTABLISHMENT.—The President shall estab-*
9 *lish an interagency coordinating committee to coordi-*
10 *nate and carry out the purposes of this Act.*

11 *(2) LEADERSHIP.—The interagency coordinating*
12 *committee shall be chaired by the Secretary of State*
13 *and the vice-chairs shall be the United States Trade*
14 *Representative and the Administrator of the United*
15 *States Agency for International Development. The*
16 *Secretary, United States Trade Representative, and*
17 *the Administrator may delegate responsibilities under*
18 *this Act to an appropriate senior Senate-confirmed*
19 *official.*

20 *(3) MEMBERSHIP.—The President may appoint*
21 *to the interagency coordinating committee senior offi-*
22 *cial from the Department of Commerce, the Depart-*
23 *ment of Agriculture, the Department of the Treasury,*
24 *the Department of Homeland Security, including at*
25 *least one such senior official from U.S. Customs and*

1 *Border Protection, and any such other relevant execu-*
2 *tive branch department or agency as the President de-*
3 *termines to be substantially involved in trade capac-*
4 *ity building and related assistance efforts in devel-*
5 *oping countries.*

6 (4) *DEVELOPMENT OF JOINT STRATEGIC PLAN.—*
7 *The interagency coordinating committee shall develop*
8 *the joint strategic plan for all United States capacity*
9 *building and technical assistance programs described*
10 *under section 6.*

11 (5) *BUDGET REVIEW AND RECOMMENDATION AU-*
12 *THORITY.—The interagency coordinating committee,*
13 *under the leadership of Chair and Vice-Chairs of the*
14 *Interagency Coordinating Committee, should, in co-*
15 *ordination with the Director of the Office of Manage-*
16 *ment and Budget—*

17 (A) *review the expenditures of each of the*
18 *relevant executive branch departments and agen-*
19 *cies with respect to trade capacity building as-*
20 *sistance and trade facilitation assistance, in con-*
21 *sultation with the head each such department or*
22 *agency;*

23 (B) *evaluate the consistency of such expend-*
24 *itures with the policies and plans set forth by the*

1 *interagency coordinating committee under this*
2 *Act; and*

3 (C) *report and make recommendations to*
4 *the President, through the Director of the Office*
5 *of Management and Budget, on appropriate*
6 *budget allocations to each such agency with re-*
7 *spect to trade capacity building assistance and*
8 *trade facilitation assistance.*

9 (d) *TRADE CAPACITY ADVISORY COMMITTEE.—*

10 (1) *ESTABLISHMENT OF TCAC.—The Chair and*
11 *Vice-Chairs of the Interagency Coordinating Com-*
12 *mittee shall establish a trade capacity advisory com-*
13 *mittee with selected representatives of the United*
14 *States private sector and other organizations with di-*
15 *rect and relevant operational experience in importing*
16 *from and exporting into developing countries, as ap-*
17 *propriate, to provide comment and advice on prior-*
18 *ities for trade capacity initiatives. The Chair and*
19 *Vice-Chairs may also appoint representatives from se-*
20 *lect non-profit organizations to the advisory com-*
21 *mittee if those representatives can demonstrate both a*
22 *presence in and relevant operational or programmatic*
23 *experience with trade capacity building efforts in de-*
24 *veloping countries.*

1 (2) *MEETINGS.*—*The trade capacity advisory*
2 *committee shall convene at least twice annually or*
3 *more often as necessary at the call of the Chair and*
4 *Vice-Chairs of the Interagency Coordinating Com-*
5 *mittee.*

6 (3) *STRATEGIC PLANNING ADVICE.*—*The trade*
7 *capacity advisory committee shall advise the Chair*
8 *and Vice-Chairs of the Interagency Coordinating*
9 *Committee on the trade capacity building priorities*
10 *of the private sector, including assisting the Chair*
11 *and Vice-Chairs in soliciting private sector advice,*
12 *including in support of the development of the trade*
13 *capacity component of country plans, the selection of*
14 *developing countries for the trade facilitation pilot*
15 *program described in section 7, implementation of*
16 *strategic planning, and advancing the overall mission*
17 *and goals of United States trade capacity assistance.*

18 (4) *APPLICABILITY OF THE FEDERAL ADVISORY*
19 *COMMITTEE ACT TO THE TRADE CAPACITY ADVISORY*
20 *COMMITTEE.*—*The provisions of the Federal Advisory*
21 *Committee Act (5 U.S.C. App.) shall apply to the*
22 *trade capacity advisory committee, except as follows:*

23 (A) *Subsections (a) and (b) of section 10 of*
24 *such Act (relating to open meetings and avail-*
25 *ability of information) shall not apply.*

1 (B) Section 11 of such Act (relating to the
2 availability of transcripts of meetings) shall not
3 apply.

4 (C) Section 14(a)(2) of such Act (relating to
5 termination) shall be applied by striking “two-
6 year period” and inserting “four-year period”.

7 **SEC. 6. BIENNIAL JOINT STRATEGIC PLAN FOR TRADE CA-**
8 **PACITY BUILDING.**

9 (a) *JOINT STRATEGIC PLAN.*—The interagency coordi-
10 nating committee created under section 5(a)(3), taking into
11 account the embassy mission strategic plan reports and rec-
12 ommendations on trade capacity building assistance and
13 trade facilitation assistance, as appropriate, shall develop
14 a biennial government-wide joint strategic plan for trade
15 capacity building in developing countries that establishes
16 detailed and clear objectives, common metrics, and specific
17 goals for the efficient delivery of United States trade-related
18 assistance, including—

19 (1) *improving the effectiveness and efficiency of*
20 *capacity building and related technical assistance by*
21 *improving coordination among—*

22 (A) *the various United States Government*
23 *agencies overseeing trade policy and providing*
24 *assistance, including embassy teams; and*

1 (B) *international trade capacity building*
2 *and technical assistance donors, including efforts*
3 *to promote the best use of resources and avoid*
4 *duplication, to share best practices, and to pur-*
5 *sue regional solutions and common approaches,*
6 *as appropriate;*

7 (2) *improving consultation with the private sec-*
8 *tor to incorporate its operational expertise and expe-*
9 *rience navigating the full range of trade barriers in*
10 *recipient foreign countries and with respect to setting*
11 *priorities and target particular barriers for reform;*

12 (3) *identifying and addressing structural weak-*
13 *nesses, systemic flaws, or other impediments to the ef-*
14 *fectiveness of United States capacity building and re-*
15 *lated technical assistance across the Federal agencies*
16 *and departments with recommendations for action;*

17 (4) *setting priorities for trade capacity building*
18 *to focus resources on developing countries where as-*
19 *sistance can deliver the best value in identifying and*
20 *eliminating barriers to trade and investment in par-*
21 *ticipating foreign countries, including by fostering*
22 *adherence to international trade obligations;*

23 (5) *developing appropriate performance meas-*
24 *ures and establishing yearly targets to monitor and*

1 *assess progress towards such targets, including meas-*
2 *ures to terminate unsuccessful programs; and*

3 *(6) providing estimates of the resources necessary*
4 *to fulfill the priorities identified by the committee.*

5 **(b) SUBMISSION OF PLAN AND REPORT TO CON-**
6 *GRESS.—Not later than one year after the date of the enact-*
7 *ment of this Act, and biennially thereafter, the Secretary*
8 *shall submit the joint strategic plan required under this sec-*
9 *tion to the President, the appropriate congressional com-*
10 *mittees, and cleared advisors on the Trade Capacity Advi-*
11 *sory Committee with any appropriate recommendations on*
12 *changes to trade capacity assistance and trade facilitation*
13 *assistance priorities on funding.*

14 **(c) CONSISTENCY WITH OTHER TRADE OBLIGA-**
15 *TIONS.—The Interagency Coordinating Committee shall en-*
16 *sure that the joint strategic plan is consistent with the*
17 *international trade obligations of the United States.*

18 **SEC. 7. TRADE FACILITATION PILOT PROGRAM.**

19 **(a) IN GENERAL.—***The Secretary of State shall estab-*
20 *lish a pilot program—*

21 *(1) to coordinate a whole-of-government effort to*
22 *expand United States efforts in trade facilitation as-*
23 *sistance for developing countries, consistent with the*
24 *policies set forth in section 4; and*

1 (2) *to direct the expenditure of funding author-*
2 *ized to be appropriated under this section to trade fa-*
3 *ilitation assistance programs in countries designated*
4 *under this section. In determining which recipient*
5 *countries should receive trade facilitation funding, the*
6 *Secretary, in concurrence with the United States*
7 *Trade Representative and the Administrator of the*
8 *United States Agency for International Development,*
9 *shall take into account—*

10 (A) *recipient country progress in, and com-*
11 *mitment to, implementing the commitments*
12 *under the World Trade Organization Trade Fa-*
13 *ilitation Agreement, including the establishment*
14 *and maintenance of a national committee on*
15 *trade facilitation and other relevant trade obli-*
16 *gations and commitments; and*

17 (B) *the capacity and willingness of the re-*
18 *ipient country to implement reforms and to en-*
19 *gage the private sector in the reform process.*

20 (b) *MISSION TRADE FACILITATION ASSISTANCE PLAN-*
21 *NING.—*

22 (1) *IN GENERAL.—United States embassies in*
23 *trade facilitation pilot countries, as designated by the*
24 *Secretary of State, in concurrence with the United*
25 *States Trade Representative and the Administrator of*

1 *the United States Agency for International Develop-*
2 *ment, pursuant to subsection (c), shall, on a biennial*
3 *basis, develop a specific trade facilitation assistance*
4 *component for their mission plan and shall provide*
5 *such component to the chair of the interagency coordi-*
6 *nating committee as established under section 5(c).*

7 (2) *SPECIFIC REQUIREMENTS.—The trade facili-*
8 *tation component of mission plans required by this*
9 *subsection shall include recommendations for priority*
10 *areas for trade capacity assistance to be provided*
11 *based on, among other things, an assessment of the*
12 *relative costs of addressing barriers to trade and the*
13 *anticipated benefits of assistance to remove such bar-*
14 *riers.*

15 (c) *ELIGIBLE COUNTRIES.—*

16 (1) *IN GENERAL.—The Secretary of State, in*
17 *concurrence with the United States Trade Representa-*
18 *tive and the Administrator of the United States Agen-*
19 *cy for International Development, is authorized to*
20 *designate trade facilitation pilot developing countries*
21 *to participate in the trade facilitation assistance pilot*
22 *program established under this section.*

23 (2) *SELECTION CRITERIA.—In designating coun-*
24 *tries pursuant to paragraph (1), the Secretary, in*
25 *concurrence with the United States Trade Representa-*

1 *tive and the Administrator of the United States Agen-*
2 *cy for International Development, shall prioritize*
3 *countries recommended by chiefs of mission, taking*
4 *into account comments from the Trade Capacity Ad-*
5 *visory Committee and recommendations from the*
6 *interagency coordinating committee, to be able to sub-*
7 *stantially benefit from expanded United States trade*
8 *capacity assistance and to have demonstrated the po-*
9 *litical will to effectively and sustainably implement*
10 *such assistance.*

11 (3) *MINIMUM NUMBER.—*

12 (A) *IN GENERAL.—The Secretary, in con-*
13 *currence with the United States Trade Rep-*
14 *resentative and the Administrator of the United*
15 *States Agency for International Development,*
16 *shall designate not fewer than five eligible devel-*
17 *oping countries to participate in the trade facili-*
18 *tation pilot program established under this sec-*
19 *tion within the first year after the date of the en-*
20 *actment of this Act and not fewer than 15 pilot*
21 *countries within the five-year term of the pro-*
22 *gram.*

23 (B) *CONSULTATION.—The Secretary, with*
24 *the United States Trade Representative and the*
25 *Administrator of the United States Agency for*

1 *International Development, shall consult with*
2 *the interagency coordinating committee and the*
3 *trade capacity advisory committee to inform the*
4 *designation of trade facilitation pilot developing*
5 *countries to participate in the priority trade ca-*
6 *capacity building pilot program established under*
7 *this section.*

8 *(d) TRADE FACILITATION ASSISTANCE.—*

9 *(1) USE OF FUNDS.—Funds authorized to be ap-*
10 *propriated under this section may be used to expand*
11 *and improve trade facilitation measures related to*
12 *import, export, or transit formalities and procedures,*
13 *including increasing the throughput rate of imports*
14 *and exports and reforming and modernizing customs*
15 *operations and procedures, as well as implementing*
16 *commitments made under the World Trade Organiza-*
17 *tion Trade Facilitation Agreement in pilot countries,*
18 *as determined by the Secretary of State, in concur-*
19 *rence with the United States Trade Representative*
20 *and the Administrator of the United States Agency*
21 *for International Development. In determining the*
22 *use of funds authorized by this section, the Secretary,*
23 *the United States Trade Representative, and the Ad-*
24 *ministrator should take into account the views of in-*

1 *terested private sector stakeholders and the recipient*
2 *government.*

3 (2) *AUTHORIZATION OF APPROPRIATIONS.—*

4 *There is authorized to be appropriated to the Sec-*
5 *retary of State \$50,000,000 for each of fiscal years*
6 *2016 through 2021 to carry out activities under this*
7 *section.*

8 (3) *AVAILABILITY.—**Amounts appropriated pur-*
9 *suant to the authorization of appropriations in para-*
10 *graph (2) are authorized to remain available until ex-*
11 *pended.*

12 (4) *REPORT.—**Not later than half-way through*
13 *the five-year term of the pilot program established*
14 *under this section, the Secretary, in consultation with*
15 *the United States Trade Representative and the Ad-*
16 *ministrator of the United States Agency for Inter-*
17 *national Development, shall submit to the appro-*
18 *priate congressional committees a report to summa-*
19 *rize how funding has been prioritized, summarize the*
20 *trade facilitation projects in each of the designated*
21 *countries, provide metrics of the progress made to*
22 *date, and highlight additional trade facilitation as-*
23 *sistance programs that will be funded in additional*
24 *countries through the remainder of the pilot program.*
25 *The Secretary, in consultation with the United States*

1 *Trade Representative and the Administrator of the*
2 *United States Agency for International Development,*
3 *shall prepare a similar report six months before the*
4 *expiration of the pilot program and provide Congress*
5 *with recommendations as to whether the pilot pro-*
6 *gram should be continued and how it could be im-*
7 *proved.*

8 (5) *TERMINATION OF PILOT PROGRAM.—The*
9 *pilot program under subsection (a) shall terminate on*
10 *the date that is five years after the date of the enact-*
11 *ment of this Act.*

12 **SEC. 8. MISSION RESPONSIBILITIES FOR TRADE CAPACITY**
13 **BUILDING.**

14 *Section 207 of the Foreign Service Act of 1980 (22*
15 *U.S.C. 3927) is amended by adding at the end the following*
16 *new section:*

17 “(d) *TRADE CAPACITY ASSISTANCE.—*

18 “(1) *COORDINATION AND SUPERVISION RESPON-*
19 *SIBILITY.—The chief of mission shall have responsi-*
20 *bility for coordinating and supervising the implemen-*
21 *tation of all United States trade-related and trade ca-*
22 *capacity assistance among all United States Govern-*
23 *ment departments and agencies present in that coun-*
24 *try (except for assistance under the control of a*
25 *United States area military commander).*

1 “(2) *AUTHORITY OVER SPENDING.*—*Consistent*
2 *with the purposes of the Global Gateways Trade Ca-*
3 *capacity Act of 2014 and except as provided in para-*
4 *graph (4), no funds appropriated or otherwise made*
5 *available to any department or agency of the United*
6 *States Government for trade capacity building assist-*
7 *ance, as defined by section 3 of such Act, may be*
8 *spent outside the United States without authorization*
9 *from the relevant chief of mission (except for assist-*
10 *ance under the control of a United States area mili-*
11 *tary commander).*

12 “(3) *DELEGATION.*—*The chief of mission may*
13 *delegate express authorization under this subsection to*
14 *senior mission staff, as appropriate and necessary, to*
15 *achieve the purposes of the Global Gateways Trade*
16 *Capacity Act of 2016.*

17 “(4) *DE MINIMUS EXCEPTION.*—*The chief of mis-*
18 *sion is authorized to set a de minimus level, not to*
19 *exceed \$25,000, for expenditures not requiring the ap-*
20 *proval of the chief of mission.*

21 “(5) *TRADE CAPACITY MISSION TEAM.*—*The chief*
22 *of mission shall form a trade capacity mission team*
23 *made up of appropriate embassy staff with responsi-*
24 *bility for developing—*

1 “(A) a country trade capacity building as-
2 sistance survey of local country barriers to trade
3 and investment; and

4 “(B) recommendations for prioritizing and
5 coordinating effective use of trade capacity as-
6 sistance within that country.”.

7 **SEC. 9. PRIVATE SECTOR CONSULTATION AND COORDINA-**
8 **TION.**

9 (a) *CONSULTATION WITH PRIVATE SECTOR BY EM-*
10 *BASSY.*—*In developing the trade capacity embassy mission*
11 *plans on trade capacity, the trade capacity mission team*
12 *shall convene local representatives of the United States pri-*
13 *vate sector and the private sector of the recipient country*
14 *to consult on issues affecting trade capacity at the borders*
15 *of participating countries and take into account the private*
16 *sector’s operational expertise and experience confronting the*
17 *trade barriers in each country as well as its recommenda-*
18 *tions for reform and best practices.*

19 (b) *INCLUSION OF PRIVATE SECTOR COMMENTS IN*
20 *MISSION PLANS.*—*Written comments from local United*
21 *States private sector representatives shall be included in the*
22 *trade capacity component of mission plans submitted by*
23 *the chief of mission to the Secretary of State, with rec-*
24 *ommendations and comments from the capacity mission*
25 *team for the purpose of informing the development of the*

1 *joint strategic plan on trade capacity priorities and rec-*
2 *ommended funding.*

3 (c) *DESIGNATED EMBASSY POINT OF CONTACT FOR*
4 *PRIVATE SECTOR CONSULTATION.*—*The chief of mission*
5 *shall designate an appropriate point of contact within the*
6 *embassy who shall receive recommendations from appro-*
7 *priate private sector representatives regarding the imple-*
8 *mentation of the strategic plan required under section 6 and*
9 *ongoing trade barriers negatively impacting priority trade*
10 *capacity assistance programs. The chief of mission shall en-*
11 *sure that the designated point of contact shall be made rea-*
12 *sonably available for consultations with and to receive com-*
13 *plaints from appropriate private sector representatives and*
14 *to receive recommendations with respect to country-specific*
15 *issues that may arise that will foreseeably disrupt trade.*

16 (d) *PUBLIC HEARINGS WITH INTERESTED PARTIES.*—
17 *For the purposes of developing the joint strategic plan, the*
18 *Secretary of State shall hold public meetings from time to*
19 *time for the purpose of obtaining input from interested par-*
20 *ties.*

21 (e) *REQUIREMENT TO PROTECT BUSINESS CONFIDEN-*
22 *TIAL INFORMATION.*—

23 (1) *IN GENERAL.*—*The Secretary of State, the*
24 *United States Trade Representative, the Adminis-*
25 *trator of the United States Agency for International*

1 *Development, and the heads of all other agencies in-*
2 *olved in the Interagency Coordinating Committee es-*
3 *tablished under section 5(c) shall protect from disclo-*
4 *sure any proprietary information submitted by the*
5 *private sector representative and marked as business*
6 *confidential information unless the party submitting*
7 *the confidential business information had notice, at*
8 *the time of submission, that such information would*
9 *be released by the Secretary, or such party subse-*
10 *quently consents to the release of the information. To*
11 *the extent business confidential information is pro-*
12 *vided, a non-confidential version of the information*
13 *shall also be provided, in which the business confiden-*
14 *tial information is summarized or, if necessary, de-*
15 *leted.*

16 (2) *TREATMENT AS TRADE SECRETS.—Propri-*
17 *etary information submitted by a private party in*
18 *accordance with this Act shall be considered to be a*
19 *matter falling within the meaning of trade secrets*
20 *and commercial or financial information exemption*
21 *under section 552(b)(4) of title 5, United States Code,*
22 *and shall be exempt from disclosure without the ex-*
23 *press approval of the private party.*

1 **SEC. 10. LIMITATIONS AND CONFORMING MEASURES.**

2 (a) *RULE OF CONSTRUCTION.*—*The President shall*
3 *implement this Act in a manner consistent with the duties*
4 *and responsibilities of the Office of the United States Trade*
5 *Representative as the agency with primary responsibility*
6 *for developing, and for coordinating the implementation of,*
7 *United States international trade policy under section 141*
8 *of the Trade Act of 1974 (19 U.S.C. 2171).*

9 (b) *EXCEPTION, QUALIFICATION.*—*Section 660(b) of*
10 *the Foreign Assistance Act of 1961 (22 U.S.C. 2420(b)) is*
11 *amended—*

12 (1) *in paragraph (7), by striking the period at*
13 *the end and inserting “; or”; and*

14 (2) *by adding at the end the following new para-*
15 *graph:*

16 “(8) *with respect to trade facilitation assistance,*
17 *including training and technical assistance, provided*
18 *under section 7 of the Global Gateways Trade Capac-*
19 *ity Act of 2015 to customs and transportation au-*
20 *thorities and personnel in recipient countries to im-*
21 *plement priority trade capacity building assistance*
22 *as defined by the Global Gateways Trade Capacity*
23 *Act of 2015.”.*

24 **SEC. 11. PROGRESS REPORT.**

25 *Not later than 2 years and 4 years after the date of*
26 *the enactment of this Act, the President shall submit to the*

1 *appropriate committees and cleared advisors of the trade*
2 *capacity advisory committee a report on progress made in*
3 *implementing the provisions of this Act that includes the*
4 *following:*

5 (1) *A description of implementation of the stra-*
6 *tegic plans required under section 6.*

7 (2) *A description of progress by recipient coun-*
8 *tries receiving priority trade building assistance in*
9 *implementing the World Trade Organization Trade*
10 *Facilitation Agreement.*

11 (3) *A description of progress made in working*
12 *with foreign countries to coordinate trade capacity*
13 *building donor activities to ensure the effectiveness*
14 *and reduce duplication of capacity building and tech-*
15 *nical assistance.*

16 (4) *Recommendations for statutory, regulatory,*
17 *and funding changes to improve the effectiveness of*
18 *the whole-of-government approach to prioritizing and*
19 *delivering trade capacity building assistance.*

20 (5) *An analysis of efforts made to improve co-*
21 *ordination among the relevant departments and agen-*
22 *cies with respect to sharing information and to im-*
23 *prove performance metrics on planning and deliv-*
24 *ering trade capacity and trade facilitation assistance.*

1 (6) *A description of efforts to improve consulta-*
2 *tion, coordination, and information sharing between*
3 *the relevant departments and agencies and the private*
4 *sector on improving performance metrics, coordina-*
5 *tion, and effectiveness of trade capacity and trade fa-*
6 *ilitation assistance.*

7 (7) *An assessment of the successes and short-*
8 *comings of the efforts of the Federal Government to*
9 *focus resources and programming with respect to*
10 *trade capacity and facilitation assistance.*

11 (8) *Recommendations, if any and as appro-*
12 *priate, for any changes in statutes, regulations, or*
13 *funding levels that the interagency advisory com-*
14 *mittee considers would significantly improve the per-*
15 *formance metrics, coordination, effectiveness, or effi-*
16 *ciency of the efforts of the Federal Government to de-*
17 *liver trade capacity building and trade facilitation*
18 *assistance, including through the elimination or con-*
19 *solidation of duplicative programs or initiatives.*

20 (9) *A description of the progress made in*
21 *strengthening the rule of law, including the capacity*
22 *of recipient countries to implement, comply with, and*
23 *enforce trade agreements.*

24 (10) *A description of the successes and challenges*
25 *in sharing with donor and recipient countries infor-*

1 *mation and best practices relating to trade capacity*
2 *building and trade facilitation assistance.*

3 *(11) A description of the progress made in mini-*
4 *minating duplicative efforts, materials, facilities, and*
5 *procedures of the Federal agencies and departments*
6 *responsible for the delivery of trade capacity building*
7 *and trade facilitation assistance.*

8 *(12) Recommendations, if any and as appro-*
9 *priate, on how to enhance the efficiency and consist-*
10 *ency with which Federal funds and resources are ex-*
11 *pended to deliver trade capacity building and trade*
12 *facilitation assistance, including the extent to which*
13 *agencies and departments have utilized existing per-*
14 *sonnel, materials, technologies, and facilities.*

15 *(13) An explanation of methods developed to*
16 *measure performance, results, coordination, duplica-*
17 *tion, and sustainability of trade capacity and trade*
18 *facilitation assistance programs across agencies and*
19 *how best practices are shared across agencies.*

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A BILL

To promote international trade, and for other purposes.

DECEMBER 1, 2016

Reported with an amendment