117th Congress  
1st Session

S. ______

To amend section 232 of the Trade Expansion Act of 1962 to require the Secretary of Defense to initiate investigations and to provide for congressional disapproval of certain actions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

introduced the following bill; which was read twice and referred to the Committee on ___________________.

A BILL

To amend section 232 of the Trade Expansion Act of 1962 to require the Secretary of Defense to initiate investigations and to provide for congressional disapproval of certain actions, and for other purposes.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.  

This Act may be cited as the “Trade Security Act of 2021”.

SEC. 2. INVESTIGATIONS TO DETERMINE EFFECTS ON NATIONAL SECURITY OF IMPORTS OF ARTICLES AND CONGRESSIONAL REVIEW OF PRESIDENTIAL ACTIONS.

(a) INVESTIGATIONS AND DETERMINATIONS BY SECRETARY OF DEFENSE.—Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking “Secretary of Commerce” and all that follows through “‘Secretary’)” and inserting “Secretary of Defense”; and

(ii) in subparagraph (B)—

(I) by striking “Secretary shall” and inserting “Secretary of Defense shall”; and

(II) by striking “Secretary of Defense of” and inserting “Secretary of Commerce of”; 

(B) in paragraph (2)—

(i) by striking subparagraph (B);

(ii) in the matter preceding clause (i)—

(I) by striking “(A) In” and inserting “In”; and
(II) by striking “Secretary” and inserting “Secretary of Defense”; and

(iii) by striking clauses (i) through (iii) and inserting the following:

“(A) consult with the Secretary of Commerce regarding the methodological and policy questions raised in any investigation initiated under paragraph (1);

“(B) prepare an assessment of the defense requirements and national security impact of any article that is the subject of an investigation, which shall focus on—

“(i) the impact of the importation of the article on military readiness and critical infrastructure; and

“(ii) the need for a reliable supply of the article to protect national security;

“(C) seek information and advice from the Secretary of Commerce;

“(D) consult with appropriate officers of the United States;

“(E) consult with members of the Committee on Finance of the Senate and members of the Committee on Ways and Means of the House of Representaties; and
“(F) hold public hearings, co-chaired with the Secretary of Commerce, or otherwise afford interested parties an opportunity to present information and advice relevant to such investigation.”;

(C) by striking paragraph (3) and inserting the following:

“(3)(A) Not later than 200 days after the date on which the Secretary of Defense initiates an investigation under paragraph (1) with respect to an article, the Secretary of Defense shall submit to the President a report on the findings of such investigation with respect to the effect of the importation of such article in such quantities or under such circumstances on the national security of the United States.

“(B) If the report described in subparagraph (A) includes an affirmative finding that the importation of an article in such quantities or under such circumstances threatens to impair the national security, the President may direct the Secretary of Commerce to devise recommendations to address such threat.

“(C) Not later than 100 days after receiving from the President under subparagraph (B) a direction to devise recommendations with respect to an article, the Secretary of Commerce, in consultation with the United States Trade Representative, the Secretary of Defense,
members of the Committee on Finance of the Senate, and
members of the Committee on Ways and Means of the
House of Representatives, shall submit to the President
a report that includes—

“(i) recommendations for action or inaction
under this section with respect to the article; and

“(ii) the findings of the Secretary of Commerce
with respect to the investigation by the Secretary of
Defense under paragraph (1).

“(D) Any portion of the report submitted by the Sec-
retary of Defense under subparagraph (A) or the report
submitted by the Secretary of Commerce under subpara-
graph (C) that does not contain classified information or
proprietary information shall be published in the Federal
Register”; and

(D) in paragraph (4), by inserting “of De-
fense, in consultation with the Secretary of
Commerce,” after “The Secretary”;

(2) in subsection (c)(1), by striking subpara-
graph (A) and inserting the following:

“(A) Not later than 60 days after receiving rec-
ommendations submitted under subsection (b)(3)(C)(i)
with respect to an article, the President shall—

“(i) decide whether to take action based on
such recommendations; and
“(ii) if the President decides to take action under clause (i), determine the nature and duration of the action to be taken to adjust the imports of the article and its derivatives so that such imports will not threaten to impair the national security.”;

(3) by redesignating the second subsection (d) as subsection (e);

(4) in subsection (d)—

(A) by striking “the Secretary and the President” each place it appears and inserting “the Secretary of Defense, the Secretary of Commerce, and the President”; and

(B) by inserting “, the production of which is needed for national defense requirements and critical infrastructure in the United States” after “welfare of individual domestic industries”; and

(5) in subsection (e)(1), as redesignated by paragraph (3), by striking “Secretary” and inserting “Secretary of Defense”.

(b) CONGRESSIONAL DISAPPROVAL OF PRESIDENTIAL ACTION.—

(1) IN GENERAL.—Section 232(f) of the Trade Expansion Act of 1962 (19 U.S.C. 1862(f)) is amended—
(A) in paragraph (1), by striking “of petroleum, or petroleum products”; and

(B) in paragraph (2)(B)—

(i) by striking “petroleum imports” and inserting “imports”; and

(ii) by striking “of petroleum or petroleum products”.

(2) APPLICABILITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), subsection (f) of section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862), as amended by paragraph (1), shall apply to adjustments of imports under that section on or after July 1, 2018.

(B) EXCEPTION.—Subsection (f) of section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862), as amended by paragraph (1), shall not apply to the presidential actions taken under that section on March 8, 2018, relating to the adjustment of imports of steel and aluminum, or any subsequent actions (including proclamations, Executive orders, or other Executive acts) relating to those presidential actions.