

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—114th Cong., 2d Sess.**

**S. 2201**

To promote international trade, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended  
to be proposed by Mr. CORKER

Viz:

1 Strike all after the enacting clause and insert the fol-  
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Global Gateways Trade  
5 Capacity Act of 2016”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) Productive international trading relation-  
9 ships are vital to the economic growth and national  
10 security of the United States.

11 (2) Stable trading relationships promote secu-  
12 rity and prosperity, and leadership by the United  
13 States in international trade fosters the expansion of

1 open markets and democracy and can help level the  
2 playing field for United States businesses, workers,  
3 and consumers in the global marketplace.

4 (3) United States aid to developing countries  
5 for trade capacity building can have other positive  
6 side effects such as promoting best practices, pro-  
7 moting good governance, combating corruption, pro-  
8 moting human rights, and reforming legal regimes.

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

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

1           (6) According to the United States Trade Rep-  
2           representative, “the United States is one of the largest  
3           single-country providers of trade-related assistance”  
4           (also called trade capacity building assistance or  
5           “Aid for Trade”).

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

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

19          (9) According to the Organization for Economic  
20          Cooperation and Development (OECD), full imple-  
21          mentation of the Trade Facilitation Agreement could  
22          reduce trade costs by as much as an estimated 16.5  
23          percent of low income countries, 17 percent for  
24          lower-middle income countries, 14.6 percent for

1 upper-middle income countries, and 11.8 percent for  
2 OECD countries.

3 (10) The OECD has noted that trade barriers  
4 created by ineffective policies and burdensome rules  
5 and procedures can constitute an important incen-  
6 tive to engage in corrupt behavior, and therefore all  
7 relevant stakeholders have an interest in elaborating  
8 and promoting mutually supportive trade integrity  
9 and facilitation policies that would remove ineffective  
10 trade barriers while maintaining effective checks and  
11 balances on fraud and corruption.

12 (11) The Trade Facilitation Agreement con-  
13 tains commitments by all World Trade Organization  
14 members to implement commitments on trade facili-  
15 tation under a timetable. The TFA includes commit-  
16 ments by developed countries to assist developing  
17 countries come into compliance with the obligations  
18 of the TFA.

19 (12) According to the Government Account-  
20 ability Office, in 2012, the United States Govern-  
21 ment spent nearly \$1,000,000,000 in trade capacity  
22 building efforts in 120 countries, which were imple-  
23 mented by 20 United States Government depart-  
24 ments and agencies.

1           (13) According to testimony provided by the  
2 Administrator of the United States Agency for  
3 International Development, there is no single coordi-  
4 nating agency for trade capacity building activities  
5 in the United States Government. Each agency has  
6 its own processes for ensuring proper and effective  
7 programming of its appropriated funds.

8           (14) To enhance the effort to eliminate non-tar-  
9 iff barriers, a clear, whole-of-government strategy  
10 with appropriate coordination is needed to leverage  
11 limited trade capacity funds to achieve the ambitious  
12 goals laid out in the Trade Facilitation Agreement  
13 and to realize the potential benefits of productive  
14 international trading relationships for United States  
15 businesses, workers, consumers, and foreign trading  
16 partners.

17 **SEC. 3. DEFINITIONS.**

18 In this Act:

19           (1) APPROPRIATE CONGRESSIONAL COMMIT-  
20 TEES.—The term “appropriate congressional com-  
21 mittees” means—

22                   (A) the Committee on Foreign Relations,  
23 the Committee on Finance, and the Committee  
24 on Appropriations of the Senate; and

1 (B) the Committee on Foreign Affairs, the  
2 Committee on Ways and Means, and the Com-  
3 mittee on Appropriations of the House of Rep-  
4 resentatives.

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

7 (3) TRADE FACILITATION ASSISTANCE.—The  
8 term “trade facilitation assistance” means United  
9 States bilateral, regional, or multilateral assistance,  
10 the primary purpose of which is to support the fol-  
11 lowing activities:

12 (A) Implementation by developing coun-  
13 tries of the World Trade Organization Trade  
14 Facilitation Agreement agreed to at the 9th  
15 Ministerial of the World Trade Organization  
16 held in Bali in December 2013, including the  
17 establishment or maintenance of a national  
18 committee on trade facilitation.

19 (B) Assistance to reduce non-tariff barriers  
20 to trade at national borders in developing coun-  
21 tries, including technical assistance to reform  
22 and modernize customs operations and proce-  
23 dures and to expedite the movement, release,  
24 and clearance of goods, including goods in tran-  
25 sit.

1 (4) TRADE CAPACITY BUILDING ASSISTANCE.—

2 The term “trade capacity building assistance”  
3 means United States bilateral, regional, or multilat-  
4 eral assistance, the primary purpose of which is to  
5 support the following activities:

6 (A) Technical assistance to assist devel-  
7 oping countries in acceding, implementing, and  
8 adhering to international trade agreements, in-  
9 cluding trade policy development, trade negotia-  
10 tions assistance, administrative management of  
11 trade obligations, regulatory reform related to  
12 trade agreements, and trade-related education.

13 (B) Technical assistance to improve gov-  
14 ernance and transparency in developing coun-  
15 tries with respect to imports, exports, and inter-  
16 national investment, including improvement of  
17 the investment climate and investor protections.

18 (C) Technical assistance to enable devel-  
19 oping country micro-, small-, and medium-size  
20 enterprises to trade more efficiently.

21 (D) Technical assistance to establish and  
22 implement of internationally-recognized stand-  
23 ards in developing countries.

1                   (E) Assistance that will contribute directly  
2                   and substantially to facilitating trade flows in a  
3                   recipient country

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

5           It is the policy of the United States—

6                   (1) to identify developing country and regional  
7                   barriers to international trade and investment, set  
8                   priorities for the efficient use of limited United  
9                   States trade-related assistance, and focus on build-  
10                  ing self-sustaining institutional capacity for expand-  
11                  ing international trade in developing countries, con-  
12                  sistent with international obligations and commit-  
13                  ments; and

14                  (2) further the national interests of the United  
15                  States by—

16                          (A) expanding prosperity through the  
17                          elimination of foreign barriers to trade and in-  
18                          vestment;

19                          (B) assisting developing country trading  
20                          partners to identify and reduce barriers to the  
21                          movement of goods in international commerce  
22                          and to investment;

23                          (C) assisting developing country trading  
24                          partners in undertaking reforms that will en-

1 courage economic engagement and sustainable  
2 development; and

3 (D) assisting private sector participants in  
4 developing countries engage in reform efforts  
5 and integrate into global supply chains.

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

8 (a) IN GENERAL.—The Secretary of State, in con-  
9 sultation with the Administrator of the United States  
10 Agency for International Development and the United  
11 States Trade Representative, shall have primary responsi-  
12 bility for coordinating a whole-of-government effort to ex-  
13 pand United States efforts in trade capacity building, pro-  
14 vided such efforts support existing trade and economic de-  
15 velopment policies. The Secretary may delegate respon-  
16 sibilities under this Act to a senior Senate confirmed State  
17 Department official.

18 (b) RESPONSIBILITIES.—The Secretary shall—

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

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

1       tion with the coordinating committee established  
2       under subsection (c);

3           (3) advise the departments and agencies des-  
4       ignated by the President to participate in the inter-  
5       agency coordinating committee under this section in  
6       identifying trade capacity needs and in the imple-  
7       mentation of the joint strategic plan required under  
8       subsection (c)(4)

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

16          (5) consult with the Office of Management and  
17      Budget regarding the administrative and human re-  
18      sources needs that may be required to implement the  
19      provisions of this Act; and

20          (6) report to Congress on trade capacity build-  
21      ing programs and make recommendations, as appro-  
22      priate, to Congress for improvements in trade capac-  
23      ity building efforts.

24      (c) INTERAGENCY COORDINATING COMMITTEE.—

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

4           (2) LEADERSHIP.—The interagency coordi-  
5           nating committee shall be chaired by the Secretary  
6           of State and the vice-chairs shall be the United  
7           States Trade Representative and the Administrator  
8           of the United States Agency for International Devel-  
9           opment. The Secretary, United States Trade Rep-  
10          resentative, and the Administrator may delegate re-  
11          sponsibilities under this Act to an appropriate senior  
12          Senate-confirmed official.

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

24          (4) DEVELOPMENT OF JOINT STRATEGIC  
25          PLAN.—The interagency coordinating committee

1 shall develop the joint strategic plan for all United  
2 States capacity building and technical assistance  
3 programs described under section 6.

4 (5) BUDGET REVIEW AND RECOMMENDATION  
5 AUTHORITY.—The interagency coordinating com-  
6 mittee, under the leadership of Chair and Vice-  
7 Chairs of the Interagency Coordinating Committee,  
8 should, in coordination with the Director of the Of-  
9 fice of Management and Budget—

10 (A) review the expenditures of each of the  
11 relevant executive branch departments and  
12 agencies with respect to trade capacity building  
13 assistance and trade facilitation assistance, in  
14 consultation with the head each such depart-  
15 ment or agency;

16 (B) evaluate the consistency of such ex-  
17 penditures with the policies and plans set forth  
18 by the interagency coordinating committee  
19 under this Act; and

20 (C) report and make recommendations to  
21 the President, through the Director of the Of-  
22 fice of Management and Budget, on appropriate  
23 budget allocations to each such agency with re-  
24 spect to trade capacity building assistance and  
25 trade facilitation assistance.

1 (d) TRADE CAPACITY ADVISORY COMMITTEE.—

2 (1) ESTABLISHMENT OF TCAC.—The Chair and  
3 Vice-Chairs of the Interagency Coordinating Com-  
4 mittee shall establish a trade capacity advisory com-  
5 mittee with selected representatives of the United  
6 States private sector and other organizations with  
7 direct and relevant operational experience in import-  
8 ing from and exporting into developing countries, as  
9 appropriate, to provide comment and advice on pri-  
10 orities for trade capacity initiatives. The Chair and  
11 Vice-Chairs may also appoint representatives from  
12 select non-profit organizations to the advisory com-  
13 mittee if those representatives can demonstrate both  
14 a presence in and relevant operational or pro-  
15 grammatic experience with trade capacity building  
16 efforts in developing countries.

17 (2) MEETINGS.—The trade capacity advisory  
18 committee shall convene at least twice annually or  
19 more often as necessary at the call of the Chair and  
20 Vice-Chairs of the Interagency Coordinating Com-  
21 mittee.

22 (3) STRATEGIC PLANNING ADVICE.—The trade  
23 capacity advisory committee shall advise the Chair  
24 and Vice-Chairs of the Interagency Coordinating  
25 Committee on the trade capacity building priorities

1 of the private sector, including assisting the Chair  
2 and Vice-Chairs in soliciting private sector advice,  
3 including in support of the development of the trade  
4 capacity component of country plans, the selection of  
5 developing countries for the trade facilitation pilot  
6 program described in section 7, implementation of  
7 strategic planning, and advancing the overall mission  
8 and goals of United States trade capacity assistance.

9 (4) APPLICABILITY OF THE FEDERAL ADVISORY  
10 COMMITTEE ACT TO THE TRADE CAPACITY ADVISORY  
11 COMMITTEE.—The provisions of the Federal Advi-  
12 sory Committee Act (5 U.S.C. App.) shall apply to  
13 the trade capacity advisory committee, except as fol-  
14 lows:

15 (A) Subsections (a) and (b) of section 10  
16 of such Act (relating to open meetings and  
17 availability of information) shall not apply.

18 (B) Section 11 of such Act (relating to the  
19 availability of transcripts of meetings) shall not  
20 apply.

21 (C) Section 14(a)(2) of such Act (relating  
22 to termination) shall be applied by striking  
23 “two-year period” and inserting “four-year pe-  
24 riod”.

1 **SEC. 6. BIENNIAL JOINT STRATEGIC PLAN FOR TRADE CA-**  
2 **PACITY BUILDING.**

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

13 (1) improving the effectiveness and efficiency of  
14 capacity building and related technical assistance by  
15 improving coordination among—

16 (A) the various United States Government  
17 agencies overseeing trade policy and providing  
18 assistance, including embassy teams; and

19 (B) international trade capacity building  
20 and technical assistance donors, including ef-  
21 forts to promote the best use of resources and  
22 avoid duplication, to share best practices, and  
23 to pursue regional solutions and common ap-  
24 proaches, as appropriate;

25 (2) improving consultation with the private sec-  
26 tor to incorporate its operational expertise and expe-

1 rience navigating the full range of trade barriers in  
2 recipient foreign countries and with respect to set-  
3 ting priorities and target particular barriers for re-  
4 form;

5 (3) identifying and addressing structural weak-  
6 nesses, systemic flaws, or other impediments to the  
7 effectiveness of United States capacity building and  
8 related technical assistance across the Federal agen-  
9 cies and departments with recommendations for ac-  
10 tion;

11 (4) setting priorities for trade capacity building  
12 to focus resources on developing countries where as-  
13 sistance can deliver the best value in identifying and  
14 eliminating barriers to trade and investment in par-  
15 ticipating foreign countries, including by fostering  
16 adherence to international trade obligations;

17 (5) developing appropriate performance meas-  
18 ures and establishing yearly targets to monitor and  
19 assess progress towards such targets, including  
20 measures to terminate unsuccessful programs; and

21 (6) providing estimates of the resources nec-  
22 essary to fulfill the priorities identified by the com-  
23 mittee.

24 (b) SUBMISSION OF PLAN AND REPORT TO CON-  
25 GRESS.—Not later than one year after the date of the en-

1 actment of this Act, and biennially thereafter, the Sec-  
2 retary shall submit the joint strategic plan required under  
3 this section to the President, the appropriate congressional  
4 committees, and cleared advisors on the Trade Capacity  
5 Advisory Committee with any appropriate recommenda-  
6 tions on changes to trade capacity assistance and trade  
7 facilitation assistance priorities on funding.

8 (c) CONSISTENCY WITH OTHER TRADE OBLIGA-  
9 TIONS.—The Interagency Coordinating Committee shall  
10 ensure that the joint strategic plan is consistent with the  
11 international trade obligations of the United States.

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

13 (a) IN GENERAL.—The Secretary of State shall es-  
14 tablish a pilot program—

15 (1) to coordinate a whole-of-government effort  
16 to expand United States efforts in trade facilitation  
17 assistance for developing countries, consistent with  
18 the policies set forth in section 4; and

19 (2) to direct the expenditure of funding author-  
20 ized to be appropriated under this section to trade  
21 facilitation assistance programs in countries des-  
22 igned under this section. In determining which re-  
23 cipient countries should receive trade facilitation  
24 funding, the Secretary, in concurrence with the  
25 United States Trade Representative and the Admin-

1       istrator of the United States Agency for Inter-  
2       national Development, shall take into account—

3               (A) recipient country progress in, and com-  
4               mitment to, implementing the commitments  
5               under the World Trade Organization Trade Fa-  
6               cilitation Agreement, including the establish-  
7               ment and maintenance of a national committee  
8               on trade facilitation and other relevant trade  
9               obligations and commitments; and

10              (B) the capacity and willingness of the re-  
11              cipient country to implement reforms and to en-  
12              gage the private sector in the reform process.

13       (b) MISSION TRADE FACILITATION ASSISTANCE  
14       PLANNING.—

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

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, in  
11           concurrence with the United States Trade Rep-  
12           resentative and the Administrator of the United  
13           States Agency for International Development, is au-  
14           thorized to designate trade facilitation pilot devel-  
15           oping countries to participate in the trade facilita-  
16           tion assistance pilot program established under this  
17           section.

18           (2) SELECTION CRITERIA.—In designating  
19           countries pursuant to paragraph (1), the Secretary,  
20           in concurrence with the United States Trade Rep-  
21           resentative and the Administrator of the United  
22           States Agency for International Development, shall  
23           prioritize countries recommended by chiefs of mis-  
24           sion, taking into account comments from the Trade  
25           Capacity Advisory Committee and recommendations

1 from the interagency coordinating committee, to be  
2 able to substantially benefit from expanded United  
3 States trade capacity assistance and to have dem-  
4 onstrated the political will to effectively and  
5 sustainably implement such assistance.

6 (3) MINIMUM NUMBER.—

7 (A) IN GENERAL.—The Secretary, in con-  
8 currence with the United States Trade Rep-  
9 resentative and the Administrator of the United  
10 States Agency for International Development,  
11 shall designate not fewer than five eligible de-  
12 veloping countries to participate in the trade fa-  
13 cilitation pilot program established under this  
14 section within the first year after the date of  
15 the enactment of this Act and not fewer than  
16 15 pilot countries within the five-year term of  
17 the program.

18 (B) CONSULTATION.—The Secretary, with  
19 the United States Trade Representative and the  
20 Administrator of the United States Agency for  
21 International Development, shall consult with  
22 the interagency coordinating committee and the  
23 trade capacity advisory committee to inform the  
24 designation of trade facilitation pilot developing  
25 countries to participate in the priority trade ca-

1           capacity building pilot program established under  
2           this section.

3           (d) TRADE FACILITATION ASSISTANCE.—

4           (1) USE OF FUNDS.—Funds authorized to be  
5           appropriated under this section may be used to ex-  
6           pand and improve trade facilitation measures related  
7           to import, export, or transit formalities and proce-  
8           dures, including increasing the throughput rate of  
9           imports and exports and reforming and modernizing  
10          customs operations and procedures, as well as imple-  
11          menting commitments made under the World Trade  
12          Organization Trade Facilitation Agreement in pilot  
13          countries, as determined by the Secretary of State,  
14          in concurrence with the United States Trade Rep-  
15          resentative and the Administrator of the United  
16          States Agency for International Development. In de-  
17          termining the use of funds authorized by this sec-  
18          tion, the Secretary, the United States Trade Rep-  
19          resentative, and the Administrator should take into  
20          account the views of interested private sector stake-  
21          holders and the recipient government.

22          (2) AUTHORIZATION OF APPROPRIATIONS.—

23          There is authorized to be appropriated to the Sec-  
24          retary of State \$50,000,000 for each of fiscal years

1       2016 through 2021 to carry out activities under this  
2       section.

3           (3) AVAILABILITY.—Amounts appropriated pur-  
4       suant to the authorization of appropriations in para-  
5       graph (2) are authorized to remain available until  
6       expended.

7           (4) REPORT.—Not later than half-way through  
8       the five-year term of the pilot program established  
9       under this section, the Secretary, in consultation  
10      with the United States Trade Representative and  
11      the Administrator of the United States Agency for  
12      International Development, shall submit to the ap-  
13      propriate congressional committees a report to sum-  
14      marize how funding has been prioritized, summarize  
15      the trade facilitation projects in each of the des-  
16      ignated countries, provide metrics of the progress  
17      made to date, and highlight additional trade facilita-  
18      tion assistance programs that will be funded in addi-  
19      tional countries through the remainder of the pilot  
20      program. The Secretary, in consultation with the  
21      United States Trade Representative and the Admin-  
22      istrator of the United States Agency for Inter-  
23      national Development, shall prepare a similar report  
24      six months before the expiration of the pilot pro-  
25      gram and provide Congress with recommendations

1 as to whether the pilot program should be continued  
2 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 2016.

12 “(4) DE MINIMUS EXCEPTION.—The chief of  
13 mission is authorized to set a de minimus 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 and the private sector of the recipient coun-  
8 try to consult on issues affecting trade capacity at the bor-  
9 ders of participating countries and take into account the  
10 private sector’s operational expertise and experience con-  
11 fronting the trade barriers in each country as well as its  
12 recommendations for reform and best practices.

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

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

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

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

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

17 (1) IN GENERAL.—The Secretary of State, the  
18 United States Trade Representative, the Adminis-  
19 trator of the United States Agency for International  
20 Development, and the heads of all other agencies in-  
21 volved in the Interagency Coordinating Committee  
22 established under section 5(c) shall protect from dis-  
23 closure any proprietary information submitted by the  
24 private sector representative and marked as business  
25 confidential information unless the party submitting

1 the confidential business information had notice, at  
2 the time of submission, that such information would  
3 be released by the Secretary, or such party subse-  
4 quently consents to the release of the information.  
5 To the extent business confidential information is  
6 provided, a non-confidential version of the informa-  
7 tion shall also be provided, in which the business  
8 confidential information is summarized or, if nec-  
9 essary, deleted.

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

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

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

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

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

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

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

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

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

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

1           (2) A description of progress by recipient coun-  
2 tries receiving priority trade building assistance in  
3 implementing the World Trade Organization Trade  
4 Facilitation Agreement.

5           (3) A description of progress made in working  
6 with foreign countries to coordinate trade capacity  
7 building donor activities to ensure the effectiveness  
8 and reduce duplication of capacity building and tech-  
9 nical assistance.

10          (4) Recommendations for statutory, regulatory,  
11 and funding changes to improve the effectiveness of  
12 the whole-of-government approach to prioritizing  
13 and delivering trade capacity building assistance.

14          (5) An analysis of efforts made to improve co-  
15 ordination among the relevant departments and  
16 agencies with respect to sharing information and to  
17 improve performance metrics on planning and deliv-  
18 ering trade capacity and trade facilitation assistance.

19          (6) A description of efforts to improve consulta-  
20 tion, coordination, and information sharing between  
21 the relevant departments and agencies and the pri-  
22 vate sector on improving performance metrics, co-  
23 ordination, and effectiveness of trade capacity and  
24 trade facilitation assistance.

1           (7) An assessment of the successes and short-  
2           comings of the efforts of the Federal Government to  
3           focus resources and programming with respect to  
4           trade capacity and facilitation assistance.

5           (8) Recommendations, if any and as appro-  
6           priate, for any changes in statutes, regulations, or  
7           funding levels that the interagency advisory com-  
8           mittee considers would significantly improve the per-  
9           formance metrics, coordination, effectiveness, or effi-  
10          ciency of the efforts of the Federal Government to  
11          deliver trade capacity building and trade facilitation  
12          assistance, including through the elimination or con-  
13          solidation of duplicative programs or initiatives.

14          (9) A description of the progress made in  
15          strengthening the rule of law, including the capacity  
16          of recipient countries to implement, comply with,  
17          and enforce trade agreements.

18          (10) A description of the successes and chal-  
19          lenges in sharing with donor and recipient countries  
20          information and best practices relating to trade ca-  
21          pacity building and trade facilitation assistance.

22          (11) A description of the progress made in  
23          minimizing duplicative efforts, materials, facilities,  
24          and procedures of the Federal agencies and depart-

1       ments responsible for the delivery of trade capacity  
2       building and trade facilitation assistance.

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

10          (13) An explanation of methods developed to  
11       measure performance, results, coordination, duplica-  
12       tion, and sustainability of trade capacity and trade  
13       facilitation assistance programs across agencies and  
14       how best practices are shared across agencies.