SEC. 1. SHORT TITLE.

This Act may be cited as the "United States Fair and Reciprocal Tariff Act".

SEC. 2. FINDINGS.

Congress finds the following:

(l) The United States maintains an open market for goods, with relatively low tariffs, and has long encouraged trading partners, both bilaterally and in multilateral fora, to liberalize their markets;

(2) The United States is the world's largest importer of goods;

(3) Trading partners of the United States in many instances impose significantly higher tariffs on U.S. goods than the United States imposes on the same or similar goods imported from those same countries;

(4) Trading partners of the United States in many instances impose significant nontariff barriers that greatly undermine the value of negotiated tariff concessions;

(5) The lack of reciprocity in tariff levels and disproportionate use of nontariff barriers by U.S. trading partners facilitates foreign imports, discourages U.S. exports, and puts U.S. producers, farmers, and workers at a competitive disadvantage;

(6) The lack of reciprocity in tariff levels and nontariff barriers contributes to the large and growing U.S. trade deficit in goods, which is a drag on economic growth and undermines economic prosperity;

(7) To date a number of U.S. trading partners have been unwilling, including in multilateral negotiations, to reduce tariff and eliminate nontariff barriers applied to U.S. exports; and

(8) The President of the United States should have a wide array of tools to open the markets of U.S. trading partners and encourage participation in negotiations to liberalize trade in goods on a fair and reciprocal basis, including the authority to adjust tariff rates to reciprocal levels.

SEC. 3 DEFINITIONS.

In this Act:

(1) NONTARIFF BARRIER—The term "nontariff barrier" includes any government-imposed measure or policy, other than a customs duty, that restricts, prevents, or impedes international trade in goods, including import policies, sanitary and phytosanitary measures,technical barriers to trade, government procurement, export subsidies, lack of intellectual property protection, digital trade barriers, and government-tolerated anticompetitive conduct of state owned or private firms; and

(2) RATE OF DUTY—The term "rate of duty" means the rate of customs duty applied on imports of a good, but does not include an antidumping or countervailing duty or a duty applied under a preferential tariff arrangement.

SEC. 4 DETERMINATIONS AND AUTHORIZED ACTIONS.

(a) DETERMINATION. If the President determines—

(1) that the rate of duty applied by a foreign country with respect to a particular good, when imported from the United States, is significantly higher than the rate of duty imposed by the United States on that good, when imported from that country; or

(2) that the nontariff barriers applied by a foreign country with respect to a particular good, when imported from the United States, impose significantly higher burdens, alone or in combination with any tariffs imposed by that country on that good, than the burdens of the tariff and nontariff barriers, if any, imposed by the United States on that good, when imported from that country,

the President may take action authorized under subsection (b).

(b) TARIFF AUTHORITY

(1) If the President makes a determination described in subsection (a), the President may take either or both of the following actions—

(A) negotiate and enter into an agreement with the foreign country that commits that country to reduce the rate of duty or eliminate nontariff barriers on the good that is the subject of the determination in subsection (a); or

(B) impose a rate of duty on imports of that good from that country that is equal to the rate of duty applied by that country on that good, in the case of determination described in subsection (a)(1), or the effective rate of duty imposed by the nontariff barriers, or combination of tariff and nontariff barriers, on the good, in the case of a determination described in subsection (a)(2).

(2) In taking action under paragraph (1), the President shall consider—

(A) the tariff classification of the goods in the United States and the foreign country;

(B) The respective applied rates of duty of the United States and the foreign country with respect to the good;

(C) the physical characteristics of the good;

(D) the end uses and existence of a competitive relationship between the good, as exported from the United States to the foreign country and as imported from that country to the United States;

(E) the foreign country's exports of that good to the United States and to the world;

(F) in the case of a determination described in subsection (a)(1), the extent to which the foreign country's tariff on the good is impeding or distorting trade;

(G) in the case of a determination described in subsection (a)(2),

(i) the respective nontariff barriers applied by the United States and the foreign country with respect to the good;

(ii) the extent to which the country's nontariff barriers, or combination of tariff and nontariff banners, on the good are impeding or distorting trade;

(iii) the identified purpose of the foreign country's nontariff barriers on the good, ifany, and the extent to which the nontariff barriers are more restrictive than necessary to meet that purpose; and

(iv) the degree of transparency in the process by which the foreign country adopted the nontariff barriers; and

(H) other factors. as the President determines appropriate.

(3) The President may impose a rate of duty lower than the rate described in paragraph (l)(B), if the President determines that application of that lower rate of duty necessary and appropriate.

(4) The U.S. Trade Representative, in consultation with the Secretary of Treasury, the Secretary of Commerce, and other relevant agency heads, shall advise the President in determining the effective rate of duty imposed on the good in the case of a determination in subsection (a)(2).

(5) If, following action under paragraph (1)(B), the foreign country increases its rate of duty on the good that is the subject of such action, the President may further increase the rate of duty on imports of the good that is subject of the determination to the rate that is equal to the rate of duty applied by that country.

(6) The President shall terminate any increase in the rate of duty applied under this section effective on the date that the President makes a determination—

(A) that the foreign country is no longer applying a rate of duty that is significantly higher than the rate of duty that was imposed by the United States prior to any action taken under this section, or imposing nontariff barriers that were the subject of a determination under subsection (a)(1); or

(B) that the increased rate is not in the economic or public interest.

SEC. 5 NOTICE AND CONSULTATION

(a) Before imposing any increased rate of duty or entering into any agreement with a foreign country under section 4(b)(1)(A), the President shall consult with the Committee on Finance of the Senate and the Committee on Ways and Means of the House Representatives regarding the proposed action.

(b) Before taking any action authorized under section 4(b)(l)(B) the President shall—

(1) not less than 30 days before an increase in the rate of duty is to take effect, publish a notice of a determination, and the increase in the rare of duty, in the *Federal Register*; and

(2) seek advice regarding the proposed action from the advisory committees established under section 135 of the Trade Act of 1974.

(c) The President shall promptly publish in the *Federal Register* notice of any action taken pursuant to section 4(b)(5) or 4(b)(6).