

110TH CONGRESS
2D SESSION

H. R. 6180

To require a review of existing trade agreements and renegotiation of existing trade agreements based on the review, to set terms for future trade agreements, to express the sense of the House of Representatives that the role of Congress in trade policymaking should be strengthened, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 4, 2008

Mr. MICHAUD (for himself, Mr. PETERSON of Minnesota, Mr. RAHALL, Mr. CONYERS, Mr. BRADY of Pennsylvania, Mr. FILNER, Mr. MURTHA, Ms. DELAURO, Mr. HINCHEY, Mr. DELAHUNT, Ms. SCHAKOWSKY, Ms. LINDA T. SÁNCHEZ of California, Mr. HOLDEN, Mr. ROSS, Mr. VISCLOSKEY, Mr. DAVIS of Illinois, Mr. KILDEE, Mr. GRIJALVA, Ms. WOOLSEY, Mr. DEFazio, Mr. SHULER, Mr. BRALEY of Iowa, Mr. LOEBACK, Mr. HALL of New York, Mr. RYAN of Ohio, Mrs. BOYDA of Kansas, Mr. CHANDLER, Mr. JOHNSON of Georgia, Mr. SARBANES, Mr. HARE, Ms. SUTTON, Mr. JACKSON of Illinois, Mr. LIPINSKI, Mr. ELLISON, Mr. AL GREEN of Texas, Mr. GENE GREEN of Texas, Ms. SOLIS, Ms. KILPATRICK, Ms. MOORE of Wisconsin, Mr. DOYLE, Mr. CLEAVER, Mr. ALLEN, Mr. LYNCH, Mr. JONES of North Carolina, Ms. BALDWIN, Ms. KAPTUR, Mr. KUCINICH, Ms. SHEA-PORTER, Ms. HIRONO, Mr. ARCURI, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. KAGEN, and Mr. WILSON of Ohio) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To require a review of existing trade agreements and renegotiation of existing trade agreements based on the review, to set terms for future trade agreements, to express

the sense of the House of Representatives that the role of Congress in trade policymaking should be strengthened, 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 “Trade Reform, Ac-
 5 countability, Development, and Employment Act of 2008”
 6 or the “TRADE Act of 2008”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

9 (1) CORE LABOR STANDARDS.—The term “core
 10 labor standards” means the core labor rights as
 11 stated in the International Labour Organization con-
 12 ventions dealing with—

13 (A) freedom of association and the effec-
 14 tive recognition of the right to collective bar-
 15 gaining;

16 (B) the elimination of all forms of forced
 17 or compulsory labor;

18 (C) the effective abolition of child labor;
 19 and

20 (D) the elimination of discrimination with
 21 respect to employment and occupation.

22 (2) MULTILATERAL ENVIRONMENTAL AGREE-
 23 MENTS.—The term “multilateral environmental

1 agreements” means any international agreement or
2 provision thereof to which the United States is a
3 party and which is intended to protect, or has the
4 effect of protecting, the environment or human
5 health.

6 (3) TRADE AGREEMENTS.—

7 (A) IN GENERAL.—The term “trade agree-
8 ment” includes the Free Trade Agreements en-
9 tered into with Australia, Bahrain, Chile,
10 Israel, Jordan, Morocco, Oman, Peru, and
11 Singapore, as well as the North American Free
12 Trade Agreement (NAFTA) and the Dominican
13 Republic-Central America-U.S. Free Trade
14 Agreement (CAFTA).

15 (B) URUGUAY ROUND AGREEMENTS.—The
16 term “trade agreement” includes—

17 (i) the General Agreement on Tariffs
18 and Trade (GATT 1994) annexed to the
19 WTO Agreement;

20 (ii) the WTO Agreement described in
21 section 2(9) of the Uruguay Round Agree-
22 ments Act (19 U.S.C. 3501(9));

23 (iii) the agreements described in sec-
24 tion 101(d) of the Uruguay Round Agree-
25 ments Act (19 U.S.C. 3511(d));

1 (iv) the post Uruguay Round sectoral
2 agreements on information technology,
3 telecommunications, and financial services;
4 and

5 (v) any future WTO agreements that
6 may result from post Uruguay Round
7 WTO negotiations.

8 **SEC. 3. REVIEW AND REPORT ON EXISTING TRADE AGREE-**
9 **MENTS.**

10 (a) IN GENERAL.—Not later than June 30, [2010],
11 and every 2 years thereafter, the Comptroller General of
12 the United States shall conduct a review of all trade agree-
13 ments described in section 2(3) and submit to the Con-
14 gressional Trade Agreement Review Committee estab-
15 lished under section 6 a report that includes the informa-
16 tion required under subsections (b) and (c) and makes the
17 recommendations required under subsection (d):

18 (1) This review shall relate to the effective op-
19 eration of the United States trade agreements pro-
20 gram generally.

21 (2) The State Department, Department of Ag-
22 riculture, Department of Commerce, Department of
23 Labor, Department of the Treasury, and other exec-
24 utive branch agencies shall cooperate with the
25 Comptroller General of the United States and the

1 Government Accountability Office in providing ac-
2 cess to foreign and U.S. Government officials and
3 documents to facilitate the report required.

4 (3) The Comptroller General of the United
5 States and the Government Accountability Office are
6 encouraged to use the findings of recent reports and
7 those now being produced in compiling the informa-
8 tion required so as to enhance the efficiency of the
9 process.

10 (b) INFORMATION WITH RESPECT TO TRADE
11 AGREEMENTS.—The report required under subsection (a)
12 shall, with respect to each trade agreement described in
13 section 2(3), include the following information covering
14 the period between the date on which the agreement en-
15 tered into force and the date on which the Comptroller
16 General completes the review:

17 (1) An analysis of the economic impact of each
18 trade agreement, including—

19 (A) the dollar value in inflation-controlled
20 terms of goods exported from the United States
21 and imported into the United States by sector,
22 State, and year delineated by trade partner
23 country;

24 (B) job gains and losses in the United
25 States by sector and State;

1 (C) median wage levels in the United
2 States in inflation-controlled dollar terms by
3 sector, State, and year;

4 (D) an analysis of production outsourcing
5 decisions made by U.S. companies before and
6 after the implementation of each trade agree-
7 ment and the rate of value-added production,
8 number of employees, and competitive position
9 of industries in the United States significantly
10 affected by the agreement; and

11 (E) income distribution in the United
12 States showing distribution by quintile and pov-
13 erty rates for the United States.

14 (2) A trend analysis of wage levels in inflation-
15 controlled dollars on a year-by-year basis in—

16 (A) countries with whom the United States
17 has trade agreements described in section
18 2(3)(A);

19 (B) countries who comprise the top U.S.
20 WTO trade partners including Belgium, Brazil,
21 China, France, Germany, Hong Kong, India,
22 Ireland, Italy, Japan, South Korea, Malaysia,
23 Netherlands, Taiwan, and the United Kingdom;

1 (C) countries with whom the United States
2 has considered establishing Free Trade Agree-
3 ments including South Africa and Thailand;

4 (D) countries who are party to the Carib-
5 bean Basin Initiative and the Andean Trade
6 Preference Drug Eradication Act; and

7 (E) Cambodia and Vietnam.

8 (3) An analysis of agriculture and food-related
9 outcomes, including—

10 (A) the trend of prices in the United
11 States for agricultural commodities and food
12 products that are imported in significant vol-
13 umes into the United States from a country
14 that is a party to the agreements described in
15 section 2(3) on a year-by-year basis;

16 (B) an analysis of the effects, if any, on
17 price transparency, price discovery, market con-
18 centration, and fair competition in the markets
19 for agricultural commodities and food products
20 that are subject to significant volumes of trade
21 between the United States and each other coun-
22 try that is a party to the agreements described
23 in section 2(3);

24 (C) an analysis of the effects, if any, on
25 the cost of farm programs in the United States

1 and each other country under the scope of sec-
2 tion 3(b)(5); and

3 (D) the number of farms operating in the
4 United States and the number of acres under
5 production for agricultural commodities that
6 are exported from the United States to any
7 other country that is a party to the agreement
8 on a year-by-year basis.

9 (4) An analysis of compliance with the terms of
10 the relevant agreements in effect between the United
11 States and each country listed in section 3(b)(2) in-
12 cluding a description of any outstanding disputes be-
13 tween the United States and any country that is a
14 party to the agreements listed in section 2(3), and
15 the status of all laws, regulations, or policies of the
16 United States or any State that any country that is
17 a party to such an agreement has challenged, or
18 threatened to challenge, under the agreements.

19 (5) An analysis of the adequacy of the U.S. ca-
20 pacity to ensure trade agreement partners' compli-
21 ance with Customs and other U.S. regulatory re-
22 quirements, including as regards the agreements list-
23 ed in section 2(3): ensuring duty payment and
24 amount of duties collected by the United States on
25 goods imported into the United States; an analysis

1 of the rate and adequacy of inspections of food and
2 other products imported; and an assessment of the
3 extent to which goods produced in a country that is
4 a party to the agreements listed in section 2(3) are
5 transshipped through other countries with which the
6 United States has a bilateral or regional agreement
7 in effect that may result in a rate of duty on such
8 goods that is lower than the rate of duty under the
9 agreement.

10 (6) A description of any privatization of public
11 sector services, in the United States or in any coun-
12 try that is a party to the agreements listed in sec-
13 tion 2(3), if those sectors are covered by investment,
14 financial services, or services provisions of the agree-
15 ment, including an analysis of any effect such pri-
16 vatization has had on the access of consumers to es-
17 sential services, such as health care, electricity, gas,
18 water, telephone service, or other utilities.

19 (7) An analysis of the price of pharmaceuticals
20 and any effect that changes in the price of pharma-
21 ceuticals has had on the access of consumers to af-
22 fordable medicines in the United States or any coun-
23 try that is a party to the agreements listed in sec-
24 tion 2(3).

1 (8) A list of any potential concerns posed by
2 any country that is a party to the agreements listed
3 in section 2(3) to the national security of the United
4 States, including—

5 (A) any potential effect on the efforts of
6 the United States to increase the energy self-
7 sufficiency of the United States;

8 (B) any increase in narco-trafficking as a
9 result of economic pressures on farmers in any
10 such country to grow illegal crops; and

11 (C) any increase in poverty in any such
12 country as a result of the displacement of work-
13 ers in sectors impacted by the agreement.

14 (9) An analysis of trends in the number of im-
15 migrants, including undocumented immigrants, en-
16 tering the United States on a year-by-year basis
17 from each country that is a party to the agreements
18 listed in section 2(3).

19 (10) An assessment of the consequences of sig-
20 nificant currency movements and a determination of
21 whether the currency of a country that is a party to
22 the agreements listed in section 2(3) is misaligned
23 deliberately to promote a competitive advantage in
24 international trade for that country.

1 (11) An analysis of contracts for the procure-
2 ment of goods or services by Federal or State gov-
3 ernment agencies from persons operating in any
4 country that is a party to the agreements listed in
5 section 2(3).

6 (c) INFORMATION ON COUNTRIES THAT ARE PAR-
7 TIES TO TRADE AGREEMENTS.—With respect to each
8 country with respect to which the United States has a
9 trade agreement listed in section 2(3) in effect, the report
10 required under subsection (a) shall include information re-
11 garding whether that country—

12 (1) has a democratic form of government;

13 (2) respects [core] labor rights, as defined by
14 the Committee of Experts on the Application of Con-
15 ventions and Recommendations and the Conference
16 Committee on the Application of Standards of the
17 International Labour Organization;

18 (3) respects fundamental human rights, as de-
19 termined by the Secretary of State in the annual
20 country reports on human rights of the Department
21 of State;

22 (4) is designated as a country of particular con-
23 cern with respect to religious freedom under section
24 402(b)(1) of the International Religious Freedom
25 Act of 1998 (22 U.S.C. 6442(b)(1));

1 (5) is on a list described in subparagraph (B)
2 or (C) of section 110(b)(1) of the Trafficking Vic-
3 tims Protection Act of 2000 (22 U.S.C. 7107(b)(1))
4 (commonly known as tier 2 or tier 3 of the Traf-
5 ficking in Persons List of the Department of State);

6 (6) has taken effective measures to combat and
7 prevent public and private corruption, including
8 measures with respect to tax evasion and money
9 laundering;

10 (7) complies with the multilateral environmental
11 agreements to which the country is a party;

12 (8) has in force adequate labor and environ-
13 mental laws and regulations, has devoted sufficient
14 resources to implementing such laws and regula-
15 tions, and has an adequate record of enforcement of
16 such law and regulations;

17 (9) adequately protects intellectual property
18 rights; and

19 (10) provides for governmental transparency,
20 due process of law, and respect for international
21 agreements.

22 (d) RECOMMENDATIONS.—Each report required
23 under subsection (a) shall include recommendations of the
24 Comptroller General for addressing the problems with re-
25 spect to an agreement identified under subsections (b) and

1 (c). The recommendations shall include suggestions for re-
2 negotiating the agreement to meet the requirements de-
3 scribed in section 4(b) and for negotiations with respect
4 to new trade agreements.

5 (e) CITATIONS.—The Comptroller General shall in-
6 clude in the report required under subsection (a) citations
7 to the sources of data used in preparing the report and
8 a description of the methodologies employed in preparing
9 the report.

10 (f) PUBLIC COMMENT.—In preparing each report re-
11 quired under subsection (a), the Comptroller General
12 shall—

13 (1) hold at least 3 hearings that are open to the
14 public; and

15 (2) provide an opportunity for members of the
16 public to testify and submit written comments.

17 (g) PUBLIC AVAILABILITY.—The information in each
18 report required under subsection (a) shall be made avail-
19 able to the public not later than 14 days after the Comp-
20 troller General completes that report.

21 **SEC. 4. INCLUSION OF CERTAIN PROVISIONS IN TRADE**
22 **AGREEMENTS.**

23 (a) IN GENERAL.—Notwithstanding section 151 of
24 the Trade Act of 1974 (19 U.S.C. 2191) or any other pro-
25 vision of law, any bill implementing a trade agreement be-

1 tween the United States and another country that is intro-
2 duced in Congress after the date of the enactment of this
3 Act shall not be subject to expedited consideration or spe-
4 cial procedures regarding amendment or debate unless the
5 trade agreement meets the requirements described in sub-
6 section (b).

7 (b) REQUIREMENTS.—Each trade agreement nego-
8 tiated between the United States and another country
9 shall meet the following requirements:

10 (1) LABOR STANDARDS.—The labor provisions
11 shall—

12 (A) be included in the core text of the
13 agreement;

14 (B) require each country that is a party to
15 the agreement to adopt into domestic law and
16 enforce effectively core labor standards;

17 (C) provide that failures to meet the labor
18 standards required by the agreement shall be
19 subject to dispute resolution and enforcement
20 mechanisms and penalties that are at least as
21 effective as the mechanisms and penalties that
22 apply to the commercial provisions of the agree-
23 ment;

1 (D) strengthen the capacity of each coun-
2 try that is a party to the agreement to promote
3 and enforce core labor standards;

4 (E)(i) establish a commission composed of
5 11 representatives specializing in international
6 and comparative labor rights of which five shall
7 be representatives of independent labor unions
8 of countries who are parties to the agreement
9 and two shall be academic researchers;

10 (ii) provide the commission with sufficient
11 resources and staff to rigorously and continu-
12 ously carry out its functions;

13 (iii) vest the commission with authority to
14 establish specific indicators of compliance with
15 the obligations set forth in subparagraphs (B),
16 (C), and (D);

17 (iv) vest the commission with authority to
18 operate with the rights of a Party in the agree-
19 ment's dispute resolution system—

20 (I) initiate complaints in an agree-
21 ment's dispute settlement system under ex-
22 pedited procedures included in section
23 4(11) with respect to violations of the obli-
24 gations set forth in subparagraphs (B),
25 (C), and (D) thus ensuring that labor

standards violations are subject to dispute resolution and enforcement mechanisms and penalties that are at least as effective as the mechanisms and penalties that apply to the commercial provisions of the agreement;

(II) conduct investigations and hearings on such complaints which shall be considered by the agreement's disputes settlement tribunal on equal standing with submissions of the involved country or countries;

(III) select the two panelists with labor rights expertise one of whom shall be selected by the union members of the commission who shall serve on the three-person dispute resolution tribunal hearing any case initiated by the commission under subparagraph (I);

(IV) review and comment on the dispute resolution panel's preliminary ruling with transmission of the preliminary ruling to the commission to occur simultaneously with transmission of the preliminary ruling to the country or countries involved;

1 (V) be treated with the status of a
2 Party to the dispute throughout all subse-
3 quent procedures of appeal, enforcement
4 action, or sanction arbitration so as to en-
5 sure a country's compliance with the obli-
6 gations set forth in subparagraphs (B),
7 (C), and (D) or the imposition of penalties
8 of sufficient magnitude to ensure full and
9 immediate compliance with the obligations
10 set forth in subparagraphs (B), (C), and
11 (D) and as appropriate incremental reduc-
12 tions in trade penalties as benchmarks are
13 achieved; and

14 (VI) any subsequent appeal or sanc-
15 tion arbitration panel shall be comprised
16 with minimally two panelists with labor
17 rights expertise;

18 (v) vest the commission with authority to
19 set benchmarks for increasing compliance with
20 such obligations; and

21 (vi) verify that benchmarks have in fact
22 been achieved; and

23 (F) require any country that is a party to
24 the agreement to—

1 (i) cooperate fully with investigations
2 by the commission required under subpara-
3 graph (E);

4 (ii) ensure full access by the commis-
5 sion to workplaces and government agen-
6 cies responsible for enforcement of labor
7 rights and standards;

8 (iii) ensure that commission personnel
9 are able to conduct confidential interviews
10 with workers, managers, and government
11 officials;

12 (iv) ensure full access by the commis-
13 sion to relevant documents of employers
14 and government agencies; and

15 (v) ensure that workers who seek to
16 enforce obligations described in this para-
17 graph are protected against reprisal by em-
18 ployers.

19 (2) ENVIRONMENTAL AND PUBLIC SAFETY
20 STANDARDS.—The environmental provisions shall—

21 (A) be included in the text of the agree-
22 ment;

23 (B) prohibit each country that is a party
24 to the agreement from weakening, eliminating,
25 or failing to enforce domestic environmental or

1 other public interest standards to promote trade
2 or attract investment;

3 (C) require each such country to imple-
4 ment and enforce fully and effectively, including
5 through domestic law, the country's obligations
6 under multilateral environmental agreements
7 and provide for the enforcement of such obliga-
8 tions under the agreement;

9 (D) prohibit the trade of products that are
10 illegally harvested or extracted and the trade of
11 goods derived from illegally harvested or ex-
12 tracted natural resources, including timber and
13 timber products, fish, wildlife, and associated
14 products, mineral resources, or other environ-
15 mentally sensitive goods;

16 (E) provide that the failure to meet the en-
17 vironmental standards required by the agree-
18 ment be subject to dispute resolution and en-
19 forcement mechanisms and penalties that are at
20 least as effective as the mechanisms and pen-
21 alties that apply to the commercial provisions of
22 the agreement; and

23 (F) allow each country that is a party to
24 the agreement to adopt and implement environ-
25 mental, health, and safety standards, recog-

1 nizing the legitimate right of governments to
2 protect the environment and public health and
3 safety.

4 (3) FOOD AND PRODUCT HEALTH AND SAFETY
5 STANDARDS.—If the agreement contains health and
6 safety standards for food and other products, the
7 agreement shall—

8 (A) establish that food, feed, food ingredi-
9 ents, and other related food products may be
10 imported into the United States from a country
11 that is a party to the agreement only if such
12 products meet or exceed United States stand-
13 ards with respect to food safety, pesticides, in-
14 spections, packaging, and labeling;

15 (B) establish that nonfood products may
16 be imported into the United States from a
17 country that is a party to the agreement only
18 if such products meet or exceed United States
19 standards with respect to health and safety, in-
20 spections, packaging, and labeling;

21 (C) allow each country that is a party to
22 the agreement to impose standards designed to
23 protect public health and safety unless it can be
24 clearly demonstrated that such standards do
25 not protect the public health or safety;

1 (D) authorize the Commissioner of the
2 Food and Drug Administration and the Con-
3 sumer Product Safety Commission to assess the
4 regulatory system of each country that is a
5 party to the agreement to determine whether
6 the system provides the same or better protec-
7 tion of health and safety for food and other
8 products as provided under the regulatory sys-
9 tem of the United States;

10 (E) if the Commissioner or the Commis-
11 sion determines that the regulatory system of
12 such a country does not provide the same or
13 better protection of health and safety for food
14 and other products as provided under the regu-
15 latory system of the United States, prohibit the
16 importation into the United States of food and
17 other products from that country;

18 (F) provide a process by which producers
19 from countries whose standards are not found
20 by the Commissioner or the Commission to
21 meet U.S. standards may have specific facilities
22 inspected and certified so as to allow products
23 from approved facilities to be imported into the
24 United States;

1 (G) if harmonization of food or product
2 health or safety standards is necessary to facili-
3 tate trade, such harmonization shall be based
4 on standards that are no less stringent than
5 United States standards; and

6 (H) establish mandatory end-use labeling
7 of imports of milk protein concentrates.

8 (4) SERVICES PROVISIONS.—If the agreement
9 contains provisions related to the provision of serv-
10 ices, such provisions shall—

11 (A) preserve the right of Federal, State,
12 and local governments to maintain essential
13 public services and to regulate, for the benefit
14 of the public, services provided to consumers in
15 the United States;

16 (B)(i) require each country that is a party
17 to the agreement to establish a positive list of
18 each service sector that will be subject to the
19 obligations of the country under the agreement;
20 and

21 (ii) apply the agreement only to the service
22 sectors that are on the list described in clause
23 (i);

24 (C) establish a general exception to market
25 access obligations that allows a country that is

1 a party to the agreement to maintain or estab-
2 lish a ban on services the country considers
3 harmful, if the ban is applied to domestic and
4 foreign services and service providers alike;

5 (D) require service providers in any coun-
6 try that is a party to the agreement that pro-
7 vide services to consumers in the United States
8 to comply with United States environmental,
9 land use, safety, privacy, transparency, profes-
10 sional qualification, and consumer access laws
11 and regulations;

12 (E) require that services provided to con-
13 sumers in the United States, such as medical
14 and financial services, that are subject to pri-
15 vacy laws and regulations in the United States
16 may only be provided by service providers in
17 other countries that provide privacy protections
18 and protections for confidential information
19 that are equal to or exceed the protections pro-
20 vided by United States privacy laws and regula-
21 tions;

22 (F) not require the privatization of public
23 services in any country that is a party to the
24 agreement or the deregulation of a service, in-
25 cluding services related to national security, So-

1 cial Security, health, public safety, education,
2 water, sanitation, other utilities, ports, or trans-
3 portation;

4 (G) not subject local governments to the
5 service sector obligations under the agreement;
6 and

7 (H) not include provisions with respect to
8 immigration or the movement of natural per-
9 sons.

10 (5) INVESTMENT PROVISIONS.—If the agree-
11 ment contains provisions related to investment, such
12 provisions shall—

13 (A) preserve the ability of each country
14 that is a party to the agreement to regulate for-
15 eign investment in a manner consistent with the
16 needs and priorities of the country;

17 (B) allow each such country to place pru-
18 dential restrictions on speculative capital to re-
19 duce global financial instability and trade vola-
20 tility;

21 (C) not be subject to an investor-state dis-
22 pute settlement mechanism under the agree-
23 ment;

24 (D) ensure that foreign investors operating
25 in the United States have rights no greater

1 than the rights provided to domestic investors
2 by the Constitution of the United States;

3 (E) provide for government-to-government
4 dispute resolution relating to a government ac-
5 tion that destroys all value of the real property
6 of a foreign investor;

7 (F) define the term “investment” to mean
8 not more than a commitment of capital or ac-
9 quisition of real property and not to include as-
10 sumption of risk or expectation of gain or prof-
11 it;

12 (G) define the term “investor” to mean
13 only a person who makes a commitment or ac-
14 quisition described in subparagraph (F);

15 (H) define the term “direct expropriation”
16 as government actions that do not merely di-
17 minish the value of property but destroy all
18 value of the property permanently;

19 (I) not provide a dispute resolution system
20 under the agreement with regard to the enforce-
21 ment of contracts between foreign investors and
22 the government of a country that is a party to
23 the agreement relating to natural resources,
24 public works, or other activities under govern-
25 ment control; and

1 (J) define the standard of minimum treat-
2 ment to provide no greater legal rights than
3 United States citizens possess under the due
4 process clause of section 1 of the 14th amend-
5 ment to the Constitution of the United States.

6 (6) PROCUREMENT STANDARDS.—If the agree-
7 ment contains government procurement provisions,
8 such provisions shall—

9 (A) require each country that is a party to
10 the agreement to establish a positive list of in-
11 dustry sectors, goods, or services that will be
12 subject to the obligations of the country under
13 the agreement;

14 (B) with respect to the United States,
15 apply only to State governments that specifi-
16 cally agree to the agreement and only to the in-
17 dustry sectors, goods, or services specifically
18 identified by the State government and not
19 apply to local governments; and

20 (C) include only technical specifications for
21 goods or services, or supplier qualifications or
22 other conditions for receiving government con-
23 tracts that do not undermine—

24 (i) prevailing wage policies;

25 (ii) recycled content policies;

- 1 (iii) sustainable harvest policies;
- 2 (iv) renewable energy policies;
- 3 (v) human rights; or
- 4 (vi) labor project agreements.

5 (7) INTELLECTUAL PROPERTY REQUIRE-
6 MENTS.—If the agreement contains provisions re-
7 lated to the protection of intellectual property rights,
8 such provisions shall—

9 (A) promote adequate and effective protec-
10 tion of intellectual property rights;

11 (B) include only terms relating to patents
12 that do not, overtly or in application, limit the
13 flexibilities and rights established in the Dec-
14 laration on the TRIPS Agreement and Public
15 Health, adopted by the World Trade Organiza-
16 tion at the Fourth Ministerial Conference at
17 Doha, Qatar on November 14, 2001, particu-
18 larly the flexibilities and rights relating to the
19 promotion of access to medicines and the
20 issuance of compulsory licenses on grounds de-
21 termined by member states;

22 (C) require that any provisions relating to
23 the patenting of traditional knowledge be con-
24 sistent with the Convention on Biological Diver-

1 sity, concluded at Rio de Janeiro June 5, 1992;
2 and

3 (D) ensure that the access of the public to
4 essential medicines and to technologies critical
5 to preventing climate change is not obstructed
6 by any provision of the agreement relating to
7 the protection of intellectual property rights.

8 (8) AGRICULTURAL STANDARDS.—If the agree-
9 ment contains provisions related to agriculture, such
10 provisions shall—

11 (A) ensure adequate and stable market re-
12 turns for farmers in each country that is a
13 party to the agreement;

14 (B) ensure adequate and affordable sup-
15 plies of safe food for consumers;

16 (C) protect the right of each country that
17 is a party to the agreement to encourage con-
18 servation through the use of best practices with
19 respect to the management and production of
20 crops;

21 (D) ensure fair treatment of farm laborers
22 in each such country;

23 (E) protect the right of each country that
24 is a party to the agreement to prevent dumping
25 of agricultural commodities at below the cost of

1 production through border regulations or other
2 mechanisms and policies;

3 (F) protect the right of each such country
4 to establish policies with respect to food and ag-
5 riculture that require farmers to receive fair re-
6 munerations for management and labor that oc-
7 curs on farms and that allow for inventory
8 management and strategic food and renewable
9 energy reserves, while ensuring that such poli-
10 cies must not aid or abet, or otherwise con-
11 tribute to, or allow the dumping of agricultural
12 commodities onto world markets at below the
13 cost of production;

14 (G) preserve any existing United States
15 law relating to antitrust and anticompetitive
16 business practices from being preempted or ren-
17 dered ineffective by the agreement; and

18 (H) not contain provisions that conflict
19 with agricultural policy established in United
20 States law.

21 (9) TRADE REMEDIES AND SAFEGUARDS.—If
22 the agreement contains trade remedy provisions,
23 such provisions shall—

24 (A) preserve fully the ability of the United
25 States to enforce its trade laws, including anti-

1 dumping and countervailing duty laws and safe-
2 guard laws;

3 (B) not decrease the effectiveness of do-
4 mestic and international prohibitions on unfair
5 trade, especially prohibitions on dumping and
6 subsidies, and domestic and international safe-
7 guard provisions;

8 (C) establish mechanisms to address and
9 remedy market distortions that lead to dumping
10 and subsidization, including overcapacity, car-
11 telization, and market-access barriers through
12 strong trade agreement terms disciplining sub-
13 sidies;

14 (D) allow the United States to maintain
15 adequate safeguards to ensure that surges of
16 imported goods do not result in economic bur-
17 dens on workers, firms, or farmers in the
18 United States, including providing that such
19 safeguards go into effect automatically based on
20 certain criteria;

21 (E) establish mechanisms among the par-
22 ties to the agreement to examine the trade con-
23 sequences of significant currency movements
24 and to scrutinize whether a party's currency is

1 misaligned to promote a competitive advantage
2 in international trade; and

3 (F) if the currency of a country that is
4 party to the agreement is deliberately mis-
5 aligned, establish safeguard remedies that apply
6 automatically to offset substantial and sus-
7 tained currency movements.

8 (10) RULES OF ORIGIN PROVISIONS.—If the
9 agreement contains provisions related to rules of ori-
10 gin, such provisions shall—

11 (A) ensure, to the fullest extent prac-
12 ticable, that goods receiving preferential treat-
13 ment under the agreement are produced using
14 inputs from a country that is a party to the
15 agreement; and

16 (B) ensure the effective enforcement of
17 such provisions.

18 (11) DISPUTE RESOLUTION AND ENFORCEMENT
19 PROVISIONS.—If the agreement contains provisions
20 related to dispute resolution, such provisions shall—

21 (A) incorporate the basic due process guar-
22 antees protected by the Constitution of the
23 United States, including access to documents,
24 open hearings, and conflict of interest rules for
25 judges;

1 (B) require that any dispute settlement
2 panel, including an appellate panel, dealing with
3 intellectual property rights or environmental,
4 health, labor, and other public law issues in-
5 clude panelists with expertise in such issues;

6 (C) require an expedited process for all
7 dispute settlement panels and processes related
8 to violations of an agreement's labor and envi-
9 ronmental obligations, recognizing that environ-
10 mental and labor rights and the health, safety,
11 and freedom of people and possibly irreversible
12 damage to the physical environment are fun-
13 damentally different than property rights and
14 thus require establishment of more expeditious
15 timelines, together with the necessary resources
16 for oversight and enforcement; and

17 (D) provide that dispute resolution pro-
18 ceedings are open to the public and provide
19 timely public access to information regarding
20 enforcement, disputes, and ongoing negotiations
21 related to disputes.

22 (12) TECHNICAL ASSISTANCE.—If the agree-
23 ment contains technical assistance provisions, such
24 provisions shall—

1 (A) be designed to raise standards in de-
2 veloping countries by providing assistance that
3 ensures respect for diversity of development
4 paths;

5 (B) be designed to empower civil society
6 and democratic governments to create sustain-
7 able, vibrant economies and respect basic
8 rights;

9 (C) provide that technical assistance shall
10 not be a substitute for nor supplant economic
11 assistance; and

12 (D) not promote the exportation of goods
13 produced with the exploitation of labor or
14 unsustainable environmental practices.

15 (13) EXCEPTIONS FOR NATIONAL SECURITY
16 AND OTHER REASONS.—Each agreement shall—

17 (A) include an essential security exception
18 that permits a country that is a party to the
19 agreement to apply measures that the country
20 considers necessary for the maintenance or res-
21 toration of international peace or security, or
22 the protection of its own essential security in-
23 terests, including regarding infrastructure, serv-
24 ices, manufacturing, and other sectors;

1 (B) explicitly state that if a country in-
2 vokes the essential security exception in a dis-
3 pute settlement proceeding, the dispute settle-
4 ment body hearing the matter shall find that
5 the exception applies;

6 (C) include a provision that gives priority
7 to the implementation of bilateral or multilat-
8 eral agreements relating to public health,
9 human and labor rights, the environment, or
10 other public interest goals in the event of any
11 inconsistency between a trade agreement and
12 such bilateral or multilateral agreement; and

13 (D) include in its list of general exceptions
14 the following language: “Notwithstanding any
15 other provision of this agreement, a provision of
16 law that is nondiscriminatory on its face and
17 relates to domestic health, consumer safety, the
18 environment, labor rights, worker health and
19 safety, economic equity, consumer access, the
20 provision of goods or services, or investment,
21 shall not be subject to challenge under the dis-
22 pute resolution mechanism established under
23 this agreement, unless the primary purpose of
24 the law is to discriminate with respect to mar-
25 ket access.”.

1 (14) FEDERALISM.—The agreement may only
2 require a State government to comply with procure-
3 ment, investment, or services provisions contained in
4 the agreement if the State government has been con-
5 sulted in full and has given explicit consent to be
6 bound by such provisions.

7 (15) TAXATION.—Each agreement shall provide
8 for tax equity for U.S. producers and U.S. export-
9 ers, including by forbidding taxation at the border
10 on U.S. exports in excess of taxes applied at the bor-
11 der by the United States to imports from parties
12 and/or banning the rebate of taxes on exports in
13 amounts in excess of any taxes rebated by the
14 United States.

15 **SEC. 5. RENEGOTIATION OF EXISTING TRADE AGREE-**
16 **MENTS.**

17 The President shall submit to Congress a plan for
18 renegotiating each trade agreement that is in effect on the
19 date of the enactment of this Act to bring the trade agree-
20 ment into compliance with the requirements of section
21 4(b) not later than 90 days before the earlier of the day
22 on which the President—

23 (1) initiates negotiations with a foreign country
24 with respect to a new trade agreement; or

1 (2) submits a bill to Congress to implement a
2 trade agreement.

3 **SEC. 6. ESTABLISHMENT OF CONGRESSIONAL TRADE**
4 **AGREEMENT REVIEW COMMITTEE.**

5 (a) **ESTABLISHMENT.**—There is established a Con-
6 gressional Trade Agreement Review Committee.

7 (b) **FUNCTIONS.**—The Committee—

8 (1) shall receive the report of the Comptroller
9 General of the United States required under section
10 3;

11 (2) shall review the plan for renegotiation of
12 trade agreements submitted by the President under
13 section 5; and

14 (3) may, not later than 60 days after receiving
15 the plan described in paragraph (2), add items for
16 renegotiation to the plan, reject recommendations in
17 the plan, or otherwise amend the plan by a vote of
18 $\frac{2}{3}$ of the members of the Committee.

19 (c) **APPOINTMENT AND MEMBERSHIP.**—The Com-
20 mittee shall be composed of the chair and ranking mem-
21 bers of the following:

22 (1) The Committee on Agriculture of the House
23 of Representatives.

24 (2) The Committee on Education and Labor of
25 the House of Representatives.

1 (3) The Committee on Energy and Commerce
2 of the House of Representatives.

3 (4) The Committee on Financial Services of the
4 House of Representatives.

5 (5) The Committee on Foreign Affairs of the
6 House of Representatives.

7 (6) The Committee on the Judiciary of the
8 House of Representatives.

9 (7) The Committee on Natural Resources of the
10 House of Representatives.

11 (8) The Committee on Small Business of the
12 House of Representatives.

13 (9) The Committee on Transportation and In-
14 frastructure of the House of Representatives.

15 (10) The Committee on Ways and Means of the
16 House of Representatives.

17 (11) The Committee on Agriculture, Nutrition,
18 and Forestry of the Senate.

19 (12) The Committee on Banking, Housing, and
20 Urban Affairs of the Senate.

21 (13) The Committee on Commerce, Science,
22 and Transportation of the Senate.

23 (14) The Committee on Energy and Natural
24 Resources of the Senate.

1 (15) The Committee on Environment and Pub-
2 lic Works of the Senate.

3 (16) The Committee on Finance of the Senate.

4 (17) The Committee on Foreign Relations of
5 the Senate.

6 (18) The Committee on Health, Education,
7 Labor, and Pensions of the Senate.

8 (19) The Committee on the Judiciary of the
9 Senate.

10 (20) The Committee on Small Business and
11 Entrepreneurship of the Senate.

12 **SEC. 7. SENSE OF CONGRESS ON REQUIREMENTS FOR**
13 **TRADE AGREEMENTS.**

14 (a) IN GENERAL.—It is the sense of Congress that
15 the requirements described in subsection (b) shall apply
16 to any trade agreement that—

17 (1) is in effect with respect to the United
18 States on the date of the enactment of this Act; or

19 (2) enters into force with respect to the United
20 States on or after such date of enactment.

21 (b) REQUIREMENTS WITH RESPECT TO TRADE
22 AGREEMENTS.—The requirements described in this sub-
23 section are the following:

24 (1) The trade agreement shall result in the cre-
25 ation of jobs in the United States, increased wages,

1 and a reduction of the trade deficit by providing fair
2 and transparent market access while preserving the
3 ability of the United States—

4 (A) to enforce domestic trade laws; and

5 (B) to address the negative impacts of cur-
6 rency manipulation, financial instability, and
7 high debt burdens on United States trade rela-
8 tionships.

9 (2) The trade agreement shall preserve the abil-
10 ity of the United States and the government of any
11 country that is a party to the agreement to foster
12 and secure economic, social, and human development
13 so that the people of the United States can benefit
14 from—

15 (A) strong environmental, labor, health,
16 and safety laws; and

17 (B) economic development policies designed
18 to increase job availability and stable industries,
19 revitalize the manufacturing base in the United
20 States, and bring economic opportunity to com-
21 munities hard hit by past trade policies.

22 (3) The trade agreement shall create a predict-
23 able structure for international trade without pro-
24 viding foreign investors with overreaching privileges

1 and rights of private enforcement that distort invest-
2 ment decisions.

3 (4) The trade agreement shall enable Federal,
4 State, and local governments—

5 (A) to regulate in the public interest;

6 (B) to develop procurement policies that
7 create and maintain good jobs;

8 (C) to promote economic opportunity and
9 development and achieve other legitimate social
10 goals; and

11 (D) to provide high-quality public services
12 and regulate all essential services to protect the
13 public interest.

14 (5) The trade agreement shall ensure that prod-
15 ucts imported into the United States, including food,
16 meet U.S. safety standards, are thoroughly in-
17 spected, and accurately labeled.

18 (6) The trade agreement shall enable the public
19 to participate meaningfully in the decisions of the
20 Federal Government relating to trade, based on a
21 process that is open, democratic, and fair.

22 (7) The trade agreement shall specifically pro-
23 vide that the trade agreement does not allow for the
24 preemption of the federalist system of the United

1 States with respect to issues of State and local pol-
2 icy that are not related to international trade.

3 (8) The trade agreement shall reflect the inter-
4 ests of the United States in preserving family farms
5 and using best available management practices.

6 (9) The trade agreement shall promote the abil-
7 ity of farmers to earn a fair price for their products,
8 including by prohibiting export subsidies, cartels,
9 and other anticompetitive practices and promoting
10 inventory management to stabilize price volatility
11 and to counter the oversupply problems that lead to
12 dumping and depressed prices.

13 (10) The trade agreement shall explicitly incor-
14 porate in the core text of the agreement a require-
15 ment to adopt into domestic law and effectively en-
16 force core labor standards.

17 (11) The trade agreement shall—

18 (A) allow any country that is a party to
19 the agreement to follow environmental, health,
20 and safety standards adopted in reliance on the
21 precautionary principle, recognizing the legiti-
22 mate rights of governments to protect public
23 health, safety, and the environment;

24 (B) incorporate requirements to adopt into
25 domestic law and enforce the major multilateral

1 environmental agreements, which comprise the
2 global consensus on basic environmental protec-
3 tion; and

4 (C) prohibit the importation of any goods
5 that are illegally harvested natural resources or
6 products, or that are otherwise environmentally
7 sensitive into the United States, and consider
8 specific measures to enable customs agencies in
9 all countries that are parties to the agreement,
10 to meaningfully enforce those prohibitions,
11 based in the principle that open trade does not
12 mean illegal trade.

13 (12) The trade agreement shall—

14 (A) provide that failures to meet the labor
15 and environmental standards required by the
16 agreement are subject to dispute resolution and
17 enforcement mechanisms and penalties that are
18 at least as effective as the mechanisms and pen-
19 alties that apply to the commercial provisions of
20 the agreement; and

21 (B) ensure the availability of the resources
22 necessary for oversight and enforcement of the
23 labor, environmental, and intellectual property
24 standards in the agreement.

1 (13) The trade agreement shall establish that,
2 if the regulatory standards of the countries that are
3 parties to the agreement need to be harmonized to
4 facilitate trade, the harmonization shall be based on
5 standards that are no less stringent than the stand-
6 ards of the United States.

7 **SEC. 8. SENSE OF CONGRESS ON IMPROVING THE PROCESS**
8 **FOR UNITED STATES TRADE NEGOTIATIONS.**

9 (a) It is the sense of Congress that if Congress con-
10 siders legislation to provide for special procedures for the
11 consideration of bills to implement trade agreements, that
12 legislation shall include—

13 (1) readiness criteria for the President to use in
14 determining whether a country—

15 (A) is able to meet its obligations under a
16 trade agreement;

17 (B) meets the requirements described in
18 section 3(c); and

19 (C) is an appropriate country with which
20 to enter into a trade agreement;

21 (2) a process by which the Committee on Fi-
22 nance of the Senate and the Committee on Ways
23 and Means of the House of Representatives review
24 the determination of the President described in

1 paragraph (1) to verify that the country meets the
2 criteria;

3 (3) requirements for consultation with Congress
4 during trade negotiations that require more frequent
5 consultations than required by the Bipartisan Trade
6 Promotion Authority Act of 2002 (19 U.S.C. 3801
7 et seq.), including a process for consultation with
8 any committee of Congress with jurisdiction over
9 any area covered by the negotiations;

10 (4) binding negotiating objectives and require-
11 ments outlining what must and must not be included
12 in a trade agreement, including the requirements de-
13 scribed in section 4(b);

14 (5) a process for review and certification by
15 Congress to ensure that the negotiating objectives
16 described in paragraph (4) have been met during the
17 negotiations;

18 (6) a process—

19 (A) by which a State may give informed
20 consent to be bound by nontariff provisions in
21 a trade agreement that relate to investment, the
22 service sector, and procurement; and

23 (B) that prevents a State from being
24 bound by the provisions described in subpara-
25 graph (A) if the State has not consented; and

1 (7) a requirement that a trade agreement be
2 approved by a majority vote in both Houses of Con-
3 gress before the President may sign the agreement.

○