

110TH CONGRESS  
2D SESSION

# S. 3083

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 Senate that the role of Congress in trade policymaking should be strengthened, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 4, 2008

Mr. BROWN (for himself, Mr. DORGAN, Mr. FEINGOLD, Mr. CASEY, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on Finance

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## 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 Senate 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”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) CORE LABOR STANDARDS.—The term “core  
4 labor standards” means the core labor rights as  
5 stated in the International Labour Organization con-  
6 ventions dealing with—

7 (A) freedom of association and the effec-  
8 tive recognition of the right to collective bar-  
9 gaining;

10 (B) the elimination of all forms of forced  
11 or compulsory labor;

12 (C) the effective abolition of child labor;  
13 and

14 (D) the elimination of discrimination with  
15 respect to employment and occupation.

16 (2) MULTILATERAL ENVIRONMENTAL AGREE-  
17 MENTS.—The term “multilateral environmental  
18 agreements” means any international agreement or  
19 provision thereof to which the United States is a  
20 party and which is intended to protect, or has the  
21 effect of protecting, the environment or human  
22 health.

23 (3) TRADE AGREEMENTS.—

24 (A) IN GENERAL.—The term “trade agree-  
25 ment” includes the following:

1 (i) The United States-Australia Free  
2 Trade Agreement.

3 (ii) The United States-Morocco Free  
4 Trade Agreement.

5 (iii) The United States-Singapore  
6 Free Trade Agreement.

7 (iv) The United States-Chile Free  
8 Trade Agreement Implementation Act.

9 (v) The North American Free Trade  
10 Agreement.

11 (vi) The Agreement between the  
12 United States of America and the  
13 Hashemite Kingdom of Jordan on the Es-  
14 tablishment of a Free Trade Area.

15 (vii) The Dominican Republic-Central  
16 America-United States Free Trade Agree-  
17 ment Implementation Act.

18 (viii) The United States-Bahrain Free  
19 Trade Agreement Implementation Act.

20 (ix) The United States-Oman Free  
21 Trade Agreement Implementation Act.

22 (x) The Agreement on the Establish-  
23 ment of a Free Trade Area between the  
24 Government of the United States of Amer-  
25 ica and the Government of Israel.

1 (xi) The United States-Peru Trade  
2 Promotion Agreement.

3 (B) URUGUAY ROUND AGREEMENTS.—The  
4 term “trade agreement” includes the following  
5 Uruguay Round Agreements:

6 (i) The General Agreement on Tariffs  
7 and Trade (GATT 1994) annexed to the  
8 WTO Agreement.

9 (ii) The WTO Agreement described in  
10 section 2(9) of the Uruguay Round Agree-  
11 ments Act (19 U.S.C. 3501(9)).

12 (iii) The agreements described in sec-  
13 tion 101(d) of the Uruguay Round Agree-  
14 ments Act (19 U.S.C. 3511(d)).

15 (iv) Any multilateral agreement en-  
16 tered into by the United States under the  
17 auspices of the World Trade Organization  
18 dealing with information technology, tele-  
19 communications, or financial services.

20 **SEC. 3. REVIEW AND REPORT ON EXISTING TRADE AGREE-**  
21 **MENTS.**

22 (a) REVIEW AND REPORT.—

23 (1) IN GENERAL.—Not later than June 30,  
24 2010, the Comptroller General of the United States  
25 shall conduct a review of all trade agreements de-

1       scribed in section 2(3) and submit to the Congres-  
2       sional Trade Agreement Review Committee estab-  
3       lished under section 6 a report that includes the in-  
4       formation described under subsections (b) and (c)  
5       and the recommendations required under subsection  
6       (d). The review shall concentrate on the effective op-  
7       eration of the United States trade agreements pro-  
8       gram generally.

9               (2) COOPERATION OF AGENCIES.—The Depart-  
10       ment of State, the Department of Agriculture, the  
11       Department of Commerce, the Department of Labor,  
12       the Department of the Treasury, the United States  
13       Trade Representative, and other executive depart-  
14       ments and agencies shall cooperate with the Comp-  
15       troller General and the Government Accountability  
16       Office in providing access to United States Govern-  
17       ment officials and documents to facilitate prepara-  
18       tion of the report.

19       (b) INFORMATION WITH RESPECT TO TRADE  
20       AGREEMENTS.—The report required by subsection (a)  
21       shall, with respect to each trade agreement described in  
22       section 2(3), to the extent practical, include the following  
23       information covering the period between the date on which  
24       the agreement entered into force with respect to the

1 United States and the date on which the Comptroller Gen-  
2 eral completes the review:

3 (1) An analysis of indicators of the economic  
4 impact of each trade agreement, such as—

5 (A) the dollar value of goods exported from  
6 the United States and imported into the United  
7 States by sector and year;

8 (B) the employment effects of the agree-  
9 ment on job gains and losses in the United  
10 States by sector and changes in wage levels in  
11 the United States in dollars by sector and year;  
12 and

13 (C) the rate of production, number of em-  
14 ployees, and competitive position of industries  
15 in the United States significantly affected by  
16 the agreement.

17 (2) A trend analysis of wage levels on a year-  
18 to-year basis in—

19 (A) each country with which the United  
20 States has a trade agreement described in sec-  
21 tion 2(3)(A);

22 (B) each country that is a major United  
23 States trading partner, including Belgium,  
24 Brazil, China, France, Germany, Hong Kong,  
25 India, Ireland, Italy, Japan, South Korea, Ma-

1           laysia, Netherlands, Taiwan, and the United  
2           Kingdom;

3           (C) each country with which the United  
4           States has considered establishing a free trade  
5           agreement, including South Africa and Thai-  
6           land; and

7           (D) each country with respect to which the  
8           United States has extended preferential trade  
9           treatment under the Caribbean Basin Economic  
10          Recovery Act (19 U.S.C. 2701 et seq.) and the  
11          Andean Trade Preference Act (19 U.S.C. 3201  
12          et seq.).

13         (3) The effect on agriculture, including—

14           (A) the trend of prices in the United  
15           States for agricultural commodities and food  
16           products that are imported into the United  
17           States from a country that is a party to an  
18           agreement described in section 2(3);

19           (B) an analysis of the effects, if any, on  
20           the cost of farm programs in the United States;  
21           and

22           (C) the number of farms operating in the  
23           United States and the number of acres under  
24           production for agricultural commodities that  
25           are exported from the United States to a coun-

1           try that is a party to such an agreement on a  
2           year-by-year basis.

3           (4) An analysis of the progress in implementing  
4           trade agreement commitments and the record of  
5           compliance with the terms of each agreement in ef-  
6           fect between the United States and a country listed  
7           in paragraph (2).

8           (5) A description of any outstanding disputes  
9           between the United States and any country that is  
10          a party to an agreement listed in section 2(3), in-  
11          cluding a description of laws, regulations, or policies  
12          of the United States or any State that any country  
13          that is a party to such an agreement has challenged,  
14          or threatened to challenge, under such agreement.

15          (6) An analysis of the ability of the United  
16          States to ensure that any country with which the  
17          United States has a trade agreement described in  
18          section 2(3) complies with United States laws and  
19          regulations, including—

20                  (A) complying with the customs laws of the  
21                  United States;

22                  (B) making timely payment of duties owed  
23                  on goods imported into the United States;



1 (C) meeting safety and inspection require-  
2 ments with respect to food and other products  
3 imported into the United States; and

4 (D) complying with prohibitions on the  
5 transshipment of goods that are ultimately im-  
6 ported into the United States.

7 (7) A analysis of any privatization of public sec-  
8 tor services in the United States or in any country  
9 that is a party to the an agreement listed in section  
10 2(3), including any effect such privatization has on  
11 the access of consumers to essential services, such as  
12 health care, electricity, gas, water, telephone service,  
13 or other utilities.

14 (8) An assessment of the impact of the intellec-  
15 tual property provisions of the trade agreements list-  
16 ed in section 2(3) on access to medicines.

17 (9) An analysis of contracts for the procure-  
18 ment of goods or services by Federal or State gov-  
19 ernment agencies from persons operating in any  
20 country that is a party to an agreement listed in sec-  
21 tion 2(3).

22 (10) An assessment of the consequences of sig-  
23 nificant currency movements and a determination of  
24 whether the currency of a country that is a party to  
25 an agreement is misaligned deliberately to promote

1 a competitive advantage in international trade for  
2 that country.

3 (c) INFORMATION ON COUNTRIES THAT ARE PAR-  
4 TIES TO TRADE AGREEMENTS.—With respect to each  
5 country with respect to which the United States has a  
6 trade agreement in effect, the report required under sub-  
7 section (a) shall include information regarding whether  
8 that country—

9 (1) has a democratic form of government;

10 (2) respects core labor standards, as defined by  
11 the Committee of Experts on the Application of Con-  
12 ventions and Recommendations and the Conference  
13 Committee on the Application of Standards of the  
14 International Labour Organization;

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

19 (4) is designated as a country of particular con-  
20 cern with respect to religious freedom under section  
21 402(b)(1) of the International Religious Freedom  
22 Act of 1998 (22 U.S.C. 6442(b)(1));

23 (5) is on a list described in subparagraph (B)  
24 or (C) of section 110(b)(1) of the Trafficking Vic-  
25 tims Protection Act of 2000 (22 U.S.C. 7107(b)(1))

1 (commonly known as tier 2 or tier 3 of the Traf-  
2 ficking in Persons List of the Department of State);

3 (6) has taken effective measures to combat and  
4 prevent public and private corruption, including  
5 measures with respect to tax evasion and money  
6 laundering;

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

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

14 (9) adequately protects intellectual property  
15 rights;

16 (10) provides for governmental transparency,  
17 due process of law, and respect for international  
18 agreements;

19 (11) provides procedures to promote basic  
20 democratic rights, including the right to hold clear  
21 title to property and the right to a free press; and

22 (12) poses potential concerns to the national se-  
23 curity of the United States, including an assessment  
24 of transfer of technology, production, and services  
25 from one country to another.

1 (d) RECOMMENDATIONS.—Each report required  
2 under subsection (a) shall include recommendations of the  
3 Comptroller General for addressing the problems with re-  
4 spect to an agreement identified under subsections (b) and  
5 (c). The recommendations shall include suggestions for re-  
6 negotiating the agreement based on the requirements de-  
7 scribed in section 4(b) and for negotiations with respect  
8 to new trade agreements.

9 (e) CITATIONS.—The Comptroller General shall in-  
10 clude in the report required under subsection (a) citations  
11 to the sources of data used in preparing the report and  
12 a description of the methodologies employed in preparing  
13 the report.

14 (f) PUBLIC COMMENT.—In preparing each report re-  
15 quired under subsection (a), the Comptroller General  
16 shall—

17 (1) hold at least 2 hearings that are open to the  
18 public; and

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

21 (g) PUBLIC AVAILABILITY.—The report required  
22 under subsection (a) shall be made available to the public  
23 not later than 14 days after the Comptroller General com-  
24 pletes that report.

1 **SEC. 4. INCLUSION OF CERTAIN PROVISIONS IN TRADE**  
2 **AGREEMENTS.**

3 (a) IN GENERAL.—Notwithstanding section 151 of  
4 the Trade Act of 1974 (19 U.S.C. 2191) or any other pro-  
5 vision of law, any bill implementing a trade agreement be-  
6 tween the United States and another country that is intro-  
7 duced in Congress after the date of the enactment of this  
8 Act shall be subject to a point of order pursuant to sub-  
9 section (c) unless the trade agreement meets the require-  
10 ments described in subsection (b).

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

14 (1) LABOR STANDARDS.—The labor provisions  
15 shall—

16 (A) be included in the text of the agree-  
17 ment;

18 (B) require that a country that is party to  
19 the agreement adopt and maintain as part of  
20 its domestic law and regulations (including in  
21 any designated zone in that country), the core  
22 labor standards and effectively enforce laws di-  
23 rectly related to those standards and to accept-  
24 able conditions of work with respect to min-  
25 imum wages, hours of work, and occupational  
26 safety and health;

1 (C) prohibit a country that is a party to  
2 the agreement from waiving or otherwise dero-  
3 gating from its laws and regulations relating to  
4 the core labor standards and acceptable condi-  
5 tions of work with respect to minimum wages,  
6 hours of work, and occupational safety and  
7 health;

8 (D) require each country that is a party to  
9 the agreement to adopt into domestic law and  
10 enforce effectively core labor standards;

11 (E) provide that failures to meet the labor  
12 standards required by the agreement shall be  
13 subject to dispute resolution and enforcement  
14 mechanisms and penalties that are at least as  
15 effective as the mechanisms and penalties that  
16 apply to the commercial provisions of the agree-  
17 ment;

18 (F) strengthen the capacity of each coun-  
19 try that is a party to the agreement to promote  
20 and enforce core labor standards; and

21 (G) establish a commission of independent  
22 experts who shall receive, review, and adju-  
23 dicate any complaint filed under the labor pro-  
24 visions of the trade agreement, and vest the  
25 commission with the authority to establish ob-

jective indicators to determine compliance with the obligations set forth in subparagraphs (B), (C), (D), (E), and (F).

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

(A) be included in the text of the agreement;

(B) prohibit each country that is a party to the agreement from weakening, eliminating, or failing to enforce domestic environmental or other public safety standards to promote trade or attract investment;

(C) require each such country to implement and enforce fully and effectively, including through domestic law, the country's obligations under multilateral environmental agreements and provide for the enforcement of such obligations under the agreement;

(D) prohibit the trade of products that are illegally harvested or extracted and the trade of goods derived from illegally harvested or extracted natural resources, including timber and timber products, fish, wildlife, and associated products, mineral resources, or other environmentally sensitive goods;

1 (E) provide that the failure to meet the en-  
2 vironmental standards required by the agree-  
3 ment be subject to dispute resolution and en-  
4 forcement mechanisms and penalties that are at  
5 least as effective as the mechanisms and pen-  
6 alties that apply to the commercial provisions of  
7 the agreement; and

8 (F) allow each country that is a party to  
9 the agreement to adopt and implement environ-  
10 mental, health, and safety standards, recog-  
11 nizing the legitimate right of governments to  
12 protect the environment and public health and  
13 safety.

14 (3) FOOD AND PRODUCT HEALTH AND SAFETY  
15 STANDARDS.—If the agreement contains health and  
16 safety standards for food and other products, the  
17 agreement shall—

18 (A) establish that food, feed, food ingredi-  
19 ents, and other related food products may be  
20 imported into the United States from a country  
21 that is a party to the agreement only if such  
22 products meet or exceed United States stand-  
23 ards with respect to food safety, pesticides, in-  
24 spections, packaging, and labeling;



1 (B) establish that nonfood products may  
2 be imported into the United States from a  
3 country that is a party to the agreement only  
4 if such products meet or exceed United States  
5 health and safety standards with respect to  
6 health and safety, inspection, packaging and la-  
7 beling;

8 (C) allow each country that is a party to  
9 the agreement to impose standards designed to  
10 protect public health and safety unless it can be  
11 clearly demonstrated that such standards do  
12 not protect the public health or safety;

13 (D) authorize the Commissioner of the  
14 Food and Drug Administration (in this Act, re-  
15 ferred to as the “Commissioner”) and the Con-  
16 sumer Product Safety Commission (in this Act,  
17 referred to as the “Commission”) to assess the  
18 regulatory system of each country that is a  
19 party to the agreement to determine whether  
20 the system provides the same or better protec-  
21 tion of health and safety for food and other  
22 products as provided under the regulatory sys-  
23 tem of the United States;

24 (E) if the Commissioner or the Commis-  
25 sion determines that the regulatory system of

1           such a country does not provide the same or  
 2           better protection of health and safety for food  
 3           and other products as provided under the regu-  
 4           latory system of the United States, prohibit the  
 5           importation into the United States of food and  
 6           other products from that country;

7           (F) provide a process by which producers  
 8           from countries whose standards are not found  
 9           by the Commissioner or the Commission to  
 10          meet United States standards may have their  
 11          facilities inspected and certified in order to  
 12          allow products from approved facilities to be  
 13          imported into the United States;

14          (G) if harmonization of food or product  
 15          health or safety standards is necessary to facili-  
 16          tate trade, such harmonization shall be based  
 17          on standards that are no less stringent than  
 18          United States standards; and

19          (H) establish mandatory end-use labeling  
 20          of imports of milk protein concentrates.

21          (4) SERVICES PROVISIONS.—If the agreement  
 22          contains provisions related to the provision of serv-  
 23          ices, such provisions shall—

24                 (A) preserve the right of Federal, State,  
 25                 and local governments to maintain essential

1 public services and to regulate, for the benefit  
2 of the public, services provided to consumers in  
3 the United States by establishing a general ex-  
4 ception to the national treatment commitments  
5 in the agreement that allows distinctions be-  
6 tween United States and foreign service pro-  
7 viders and qualifications or limitations on the  
8 provision of services;

9 (B)(i) require each country that is a party  
10 to the agreement to establish a list of each serv-  
11 ice sector that will be subject to the obligations  
12 of the country under the agreement; and

13 (ii) apply the agreement only to the service  
14 sectors that are on the list described in clause  
15 (i);

16 (C) establish a general exception to market  
17 access obligations that allows a country that is  
18 a party to the agreement to maintain or estab-  
19 lish a ban on services the country considers  
20 harmful, if the ban is applied to domestic and  
21 foreign services and service providers alike;

22 (D) require service providers in any coun-  
23 try that is a party to the agreement that pro-  
24 vide services to consumers in the United States  
25 to comply with United States privacy, trans-

1           parency, professional qualification, and con-  
2           sumer access laws and regulations;

3           (E) require that services provided to con-  
4           sumers in the United States that are subject to  
5           privacy laws and regulations in the United  
6           States may only be provided by service pro-  
7           viders in other countries that provide privacy  
8           protections and protections for confidential in-  
9           formation that are equal to or exceed the pro-  
10          tections provided by United States privacy laws  
11          and regulations;

12          (F) require that financial and medical  
13          services be subject to United States privacy  
14          laws and be performed only in countries that  
15          provide protections for confidential information  
16          that are equal to or exceed the protections for  
17          such information under United States privacy  
18          laws;

19          (G) not require the privatization of public  
20          services in any country that is a party to the  
21          agreement, including services related to national  
22          security, social security, health, public safety,  
23          education, water, sanitation, other utilities,  
24          ports, or transportation; and

1 (H) provide for local governments to oper-  
2 ate without being subject to market access obli-  
3 gations under the agreement.

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

7 (A) preserve the ability of each country  
8 that is a party to the agreement to regulate for-  
9 eign investment in a manner consistent with the  
10 needs and priorities of the country;

11 (B) allow each such country to place rea-  
12 sonable restrictions on speculative capital to re-  
13 duce global financial instability and trade vola-  
14 tility;

15 (C) not be subject to an investor-state dis-  
16 pute settlement mechanism under the agree-  
17 ment;

18 (D) ensure that foreign investors operating  
19 in the United States have rights no greater  
20 than the rights provided to domestic investors  
21 by the Constitution of the United States;

22 (E) provide for government-to-government  
23 dispute resolution relating to a government ac-  
24 tion that destroys all value of the real property  
25 of a foreign investor rather than dispute resolu-

tion between the government that took the action and the foreign investor;

(F) define the term “investment” to mean not more than a commitment of capital or acquisition of real property and not to include assumption of risk or expectation of gain or profit;

(G) define the term “investor” to mean only a person who makes a commitment or acquisition described in subparagraph (F);

(H) define the term “direct expropriation” as government action that does not merely diminish the value of property but destroys all value of the property permanently;

(I) not provide a dispute resolution system under the agreement for the enforcement of contracts between foreign investors and the government of a country that is a party to the agreement relating to natural resources, public works, or other activities under government control; and

(J) define the standard of minimum treatment to provide no greater legal rights than United States citizens possess under the due

1 process clause of section 1 of the 14th amend-  
2 ment to the Constitution of the United States.

3 (6) PROCUREMENT STANDARDS.—If the agree-  
4 ment contains government procurement provisions,  
5 such provisions shall—

6 (A) require each country that is a party to  
7 the agreement to establish a list of industry  
8 sectors, goods, or services that will be subject to  
9 the national treatment and other obligations of  
10 the country under the agreement;

11 (B) with respect to the United States,  
12 apply only to State and local governments that  
13 specifically agree to the agreement and only to  
14 the industry sectors, goods, or services specifi-  
15 cally identified by the State government and  
16 not apply to local governments; and

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

- 21 (i) prevailing wage policies;
- 22 (ii) recycled content policies;
- 23 (iii) sustainable harvest policies;
- 24 (iv) renewable energy policies;
- 25 (v) human rights; or

1 (vi) labor project agreements.

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

6 (A) promote adequate and effective protec-  
7 tion of intellectual property rights;

8 (B) include only terms relating to patents  
9 that do not, overtly or in application, limit the  
10 flexibilities and rights established in the Dec-  
11 laration on the TRIPS Agreement and Public  
12 Health, adopted by the World Trade Organiza-  
13 tion at the Fourth Ministerial Conference at  
14 Doha, Qatar on November 14, 2001; and

15 (C) require that any provisions relating to  
16 the patenting of traditional knowledge be con-  
17 sistent with the Convention on Biological Diver-  
18 sity, concluded at Rio de Janeiro June 5, 1992.

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

22 (A) protect the right of each such country  
23 to establish policies with respect to food and ag-  
24 riculture that require farmers to receive fair re-  
25 muneration for management and labor that oc-



1           curs on farms and that allow for inventory  
2           management and strategic food and renewable  
3           energy reserves, to the extent that such policies  
4           do not contribute to or allow the dumping of  
5           agricultural commodities in world markets at  
6           prices lower than the cost of production;

7           (B) protect the right of each country that  
8           is a party to the agreement to prevent dumping  
9           of agricultural commodities at below the cost of  
10          production through border regulations or other  
11          mechanisms and policies;

12          (C) ensure that all laws relating to anti-  
13          trust and anti-competitive business practices re-  
14          main fully in effect, and that their enforce-  
15          ability is neither pre-empted nor compromised  
16          in any manner;

17          (D) ensure adequate supplies of safe food  
18          for consumers;

19          (E) protect the right of each country that  
20          is a party to the agreement to encourage con-  
21          servation through the use of best practices with  
22          respect to the management and production of  
23          crops; and

24          (F) ensure fair treatment of farm laborers  
25          in each such country.

1           (9) TRADE REMEDIES AND SAFEGUARDS.—If  
2       the agreement contains trade remedy provisions,  
3       such provisions shall—

4           (A) preserve fully the ability of the United  
5       States to enforce its trade laws, including anti-  
6       dumping and countervailing duty laws and safe-  
7       guard laws;

8           (B) ensure the continued effectiveness of  
9       domestic and international prohibitions on un-  
10      fair trade, especially prohibitions on dumping  
11      and subsidies, and domestic and international  
12      safeguard provisions;

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

20          (D) if the currency of a country that is a  
21      party to the agreement is deliberately mis-  
22      aligned, establish safeguard remedies that apply  
23      automatically to offset substantial and sus-  
24      tained currency movements.

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

4                   (A) ensure, to the fullest extent prac-  
5                   ticable, that goods receiving preferential treat-  
6                   ment under the agreement are produced using  
7                   inputs from a country that is a party to the  
8                   agreement; and

9                   (B) ensure the effective enforcement of  
10                  such provisions.

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

14                   (A) incorporate the basic due process guar-  
15                   antees protected by the Constitution of the  
16                   United States, including access to documents,  
17                   open hearings, and conflict of interest rules for  
18                   judges;

19                   (B) require that any dispute settlement  
20                   panel, including an appellate panel, dealing with  
21                   intellectual property rights or environmental,  
22                   health, labor, and other public law issues in-  
23                   clude panelists with expertise in such issues;  
24                   and

1 (C) provide that dispute resolution pro-  
2 ceedings are open to the public and provide  
3 timely public access to information regarding  
4 enforcement, disputes, and ongoing negotiations  
5 related to disputes.

6 (12) TECHNICAL ASSISTANCE.—If the agree-  
7 ment contains technical assistance provisions, such  
8 provisions shall—

9 (A) be designed to raise standards in de-  
10 veloping countries by providing assistance that  
11 ensures respect for diversity of development  
12 paths;

13 (B) be designed to empower civil society  
14 and democratic governments to create sustain-  
15 able, vibrant economies and respect basic  
16 rights;

17 (C) provide that technical assistance shall  
18 not supplant economic assistance; and

19 (D) promote the exportation of goods pro-  
20 duced with methods that support sustainable  
21 natural resources.

22 (13) EXCEPTIONS FOR NATIONAL SECURITY  
23 AND OTHER REASONS.—Each agreement shall—

24 (A) include an essential security exception  
25 that permits a country that is a party to the

1 agreement to apply measures that the country  
 2 considers necessary for the maintenance or res-  
 3 toration of international peace or security, or  
 4 the protection of its own essential security in-  
 5 terests, including regarding infrastructure, serv-  
 6 ices, manufacturing, and other sectors; and

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

20 (14) FEDERALISM.—The agreement may only  
 21 require a State government to comply with procure-  
 22 ment, investment, or services provisions contained in  
 23 the agreement if the State government has been con-  
 24 sulted in full and has given explicit consent to be  
 25 bound by such provisions.

1 (c) POINT OF ORDER IN SENATE.—The Senate shall  
2 cease consideration of a bill to implement a trade agree-  
3 ment if—

4 (1) a point of order is made by any Senator  
5 against the bill based on the noncompliance of the  
6 trade agreement with the requirements of subsection  
7 (b); and

8 (2) the point of order is sustained by the Pre-  
9 siding Officer.

10 (d) WAIVERS AND APPEALS.—

11 (1) WAIVERS.—Before the Presiding Officer  
12 rules on a point of order described in subsection (c),  
13 any Senator may move to waive the point of order  
14 and the motion to waive shall not be subject to  
15 amendment. A point of order described in subsection  
16 (c) is waived only by the affirmative vote of 60  
17 Members of the Senate, duly chosen and sworn.

18 (2) APPEALS.—After the Presiding Officer  
19 rules on a point of order described in subsection (c),  
20 any Senator may appeal the ruling of the Presiding  
21 Officer on the point of order as it applies to some  
22 or all of the provisions on which the Presiding Offi-  
23 cer ruled. A ruling of the Presiding Officer on a  
24 point of order described in subsection (c) is sus-

1       tained unless 60 Members of the Senate, duly cho-  
2       sen and sworn, vote not to sustain the ruling.

3           (3) DEBATE.—Debate on the motion to waive  
4       under paragraph (1) or on an appeal of the ruling  
5       of the Presiding Officer under paragraph (2) shall  
6       be limited to 1 hour. The time shall be equally di-  
7       vided between, and controlled by, the majority leader  
8       and the minority leader of the Senate, or their des-  
9       ignees.

10 **SEC. 5. RENEGOTIATION PLAN FOR EXISTING TRADE**  
11 **AGREEMENTS.**

12       The President shall submit to Congress a plan to  
13 bring trade agreements in effect on the date of the enact-  
14 ment of this Act into compliance with the requirements  
15 of section 4(b) not later than 90 days before the earlier  
16 of the day on which the President—

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

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

21 **SEC. 6. ESTABLISHMENT OF CONGRESSIONAL TRADE**  
22 **AGREEMENT REVIEW COMMITTEE.**

23       (a) ESTABLISHMENT.—There is established a Con-  
24 gressional Trade Agreement Review Committee.

25       (b) FUNCTIONS.—The Committee—

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

4           (2) shall review the plan for bringing trade  
 5       agreements into compliance with the requirements of  
 6       section 4(b); and

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

12       (c) APPOINTMENT AND MEMBERSHIP.—The Com-  
 13      mittee shall be composed of the chairman and ranking  
 14      members of the following:

15           (1) The Committee on Agriculture, Nutrition,  
 16      and Forestry of the Senate.

17           (2) The Committee on Banking, Housing, and  
 18      Urban Affairs of the Senate.

19           (3) The Committee on Commerce, Science, and  
 20      Transportation of the Senate.

21           (4) The Committee on Energy and Natural Re-  
 22      sources of the Senate.

23           (5) The Committee on Environment and Public  
 24      Works of the Senate.

25           (6) The Committee on Finance of the Senate.



1           (7) The Committee on Foreign Relations of the  
2       Senate.

3           (8) The Committee on Health, Education,  
4       Labor, and Pensions of the Senate.

5           (9) The Committee on the Judiciary of the Sen-  
6       ate.

7           (10) The Committee on Small Business and  
8       Entrepreneurship of the Senate.

9           (11) The Committee on Agriculture of the  
10      House of Representatives.

11          (12) The Committee on Education and Labor  
12      of the House of Representatives.

13          (13) The Committee on Energy and Commerce  
14      of the House of Representatives.

15          (14) The Committee on Financial Services of  
16      the House of Representatives.

17          (15) The Committee on Foreign Affairs of the  
18      House of Representatives.

19          (16) The Committee on the Judiciary of the  
20      House of Representatives.

21          (17) The Committee on Natural Resources of  
22      the House of Representatives.

23          (18) The Committee on Small Business of the  
24      House of Representatives.

1           (19) The Committee on Transportation and In-  
2       frastructure of the House of Representatives.

3           (20) The Committee on Ways and Means of the  
4       House of Representatives.

5       **SEC. 7. SENSE OF CONGRESS REGARDING READINESS CRI-**  
6                               **TERIA AND IMPROVING THE PROCESS FOR**  
7                               **UNITED STATES TRADE NEGOTIATIONS.**

8       It is the sense of Congress that if Congress considers  
9       legislation to provide for special procedures for the consid-  
10      eration of bills to implement trade agreements, that legis-  
11      lation shall include—

12           (1) criteria for the President to use in deter-  
13      mining whether a country—

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

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

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

20           (2) a process by which the Committee on Fi-  
21      nance of the Senate and the Committee on Ways  
22      and Means of the House of Representatives review  
23      the determination of the President described in  
24      paragraph (1) to verify that the country meets the  
25      criteria;

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

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

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

16          (6) a process—

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

21                (B) that prevents a State from being  
22                bound by the provisions described in subpara-  
23                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.

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