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

IN THE SENATE OF THE UNITED STATES

DECEMBER 1, 2009

Mr. Brown (for himself, Mr. Feingold, Mr. Whitehouse, Mr. Dorgan, Mr. Casey, Mr. Sanders, and Mr. Merkley) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To require a review of existing trade agreements and renegotiation of existing trade agreements based on the review, to establish terms for future trade agreements, to express the sense of the Congress that the role of Congress in making trade policy 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,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Trade Reform, Accountability, Development, and Employment Act of 2009” or the “TRADE Act of 2009”.

SEC. 2. DEFINITIONS.

In this Act:

(1) Core Labor Rights.—The term “core labor rights” means the core labor rights as stated in the International Labour Organization conventions dealing with—

   (A) freedom of association and the effective recognition of the right to collective bargaining;

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

   (C) the effective abolition of child labor;

   and

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

(2) Major U.S. Trading Partners.—The term “major U.S. trading partners” means the top 10 countries that represent the largest trade in dollar value of imports into the United States and exports from the United States, excluding petroleum and petroleum products, based on data compiled by the Department of Commerce for the most recent
12-month period preceding the date of the enactment of this Act.

(3) **Multilateral Environmental Agreement.**—The term “multilateral environmental agreement” means any international agreement or provision thereof to which the United States is a party and which is intended to protect, or has the effect of protecting, the environment or human health.

(4) **State.**—The term “State” means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(5) **Trade Agreement.**—

(A) In general.—The term “trade agreement” includes the following:

(i) The North American Free Trade Agreement.


(iii) The Dominican Republic-Central America-United States Free Trade Agreement.
(B) URUGUAY ROUND AGREEMENTS.—The term “trade agreement” includes the following agreements resulting from the Uruguay Round of Multilateral trade negotiations:

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

(ii) The WTO Agreement described in section 2(9) of the Uruguay Round Agreements Act (19 U.S.C. 3501(9)).

(iii) Each of the agreements described in section 101(d) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)).

(iv) Any multilateral agreement entered into under the auspices of the World Trade Organization dealing with information technology, telecommunications, or financial services.

(6) TRADE AGREEMENT COUNTRY.—The term “trade agreement country” means a country that is—

(A) a party to an agreement described in paragraph (5)(A); or
(B) a major U.S. trading partner that is a party to an agreement described in paragraph (5)(B).

(7) TRIPS AGREEMENT.—The term "TRIPS Agreement" means the Agreement on Trade-Related Aspects of Intellectual Property Rights described in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(5)).

(8) WORLD TRADE ORGANIZATION.—The term "World Trade Organization" means the organization established pursuant to the WTO Agreement.

SEC. 3. REVIEW AND REPORT ON EXISTING TRADE AGREEMENTS.

(a) Review and Report.—

(1) IN GENERAL.—Not later than June 30, 2011, the Comptroller General of the United States shall conduct a review, and submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, with respect to each trade agreement described in section 2(5)(A) and each trade agreement described in section 2(5)(B) to the extent such agreement is in effect with respect to a major U.S. trading partner. The report shall include an evaluation of the economic, employment, environmental,
national security, health, safety, and other effects of each such agreement.

(2) Cooperation of Agencies.—The Secretaries of State, Agriculture, Commerce, Labor, and the Treasury, and the heads of other executive departments and agencies shall cooperate with the Comptroller General in providing access to officials and documents to facilitate the preparation of the report.

(b) Information With Respect to Trade Agreements.—The report required by subsection (a) shall, with respect to each trade agreement described in subsection (a), to the extent practicable, include the following information covering the period between the date on which the agreement entered into force with respect to the United States and the date on which the Comptroller General completes the review:

(1) An analysis of indicators of the economic impact of each trade agreement, including the following:

(A) The dollar value of goods exported from the United States and imported for consumption into the United States by sector, year, and trade agreement country, including a list of those goods for which there has been a change
in 10 percent or more in bilateral trade with each such country.

(B) The employment effects of the agreement, including job gains and losses in the United States by sector and changes in wage levels in the United States in dollars by sector and year, and the employment effects of the agreement in each trade agreement country.

(C) The share of global production, productive capacity, investment, exports, employment, and other indicators of the competitive position of industries in the United States significantly affected by each such trade agreement, taking into account changes in sourcing patterns before and after entry into force of the trade agreement.

(2) The effect of each trade agreement on agriculture, including—

(A) the trend on a year-to-year basis of—

(i) the prices and production volumes of agricultural commodities, food products, and ingredients in the United States and in each trade agreement country;

(ii) the prices and volumes of such commodities, products, and ingredients ex-
ported from the United States to each such trade agreement country; and

(iii) the prices and volumes of such commodities, products, and ingredients imported into the United States from each such trade agreement country;

(B) the number of farms operating in the United States detailed by farm typology and sales level and the number of acres under production by crop used to produce agricultural commodities that are exported from the United States to a country that is a party to each agreement listed in section 2(5)(A) on a year-to-year basis; and

(C) changes in United States meat exports and the employment impacts of meat exports.

(3) An analysis of the progress being made in implementing the commitments contained in each agreement and the record of compliance with the terms of each agreement in effect between the United States and a trade agreement country.

(4) A description of any outstanding disputes between the United States and any trade agreement country, including a description of laws, regulations, or policies of the United States or any State that a
trade agreement country has challenged, or threatened to challenge, under a trade agreement.

(5) An analysis of the ability of the United States to ensure that any trade agreement country complies with laws and regulations of the United States, including—

(A) the customs laws of the United States;

(B) laws relating to the payment of duties on goods imported into the United States;

(C) health, safety, and inspection requirements with respect to food and other products imported into the United States; and

(D) prohibitions on the transshipment of goods that are ultimately imported into the United States.

(6) An analysis of any privatization of public sector services in the United States and in each trade agreement country if the service involved is covered by the investment, financial services, or services provisions of a trade agreement. The analysis shall include any effect privatization has on consumer access to essential services, such as health care, electricity, gas, water, telephone service, or other utilities.
(7) An assessment of the impact the intellectual
property provisions of each trade agreement has on
consumer access to pharmaceuticals and on the re-
tail price of pharmaceuticals in each trade agree-
ment country and the effect, if any, that changes in
the price of pharmaceuticals have had on access by
consumers to pharmaceuticals.

(8) An analysis of the impact of the government
procurement provision of each trade agreement on
the procurement of goods and services by Federal
and State agencies and by each trade agreement
country.

(9) An assessment of the consequences of sig-
nificant currency movements of each trade agree-
ment country and a determination of whether the
currency of the country is misaligned deliberately to
promote a competitive advantage in international
trade for that country.

(c) INFORMATION ON COUNTRIES THAT ARE PAR-
ties to Trade Agreements.—In addition to the infor-
mation required by subsection (b), the report required
under subsection (a) shall include, with respect to each
trade agreement country, information regarding whether
the country—

(1) has a democratic form of government;
(2) has adopted into domestic law and regulations the core labor rights and effectively enforces those rights as reflected in reports of the Committee of Experts on the Application of Conventions and Recommendations, the Conference Committee on the Application of Standards, and the Committee on Freedom of Association of the International Labour Organization;

(3) respects fundamental human rights, as reflected in the annual Country Reports on Human Rights Practices of the Department of State;

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

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

(6) has taken effective measures to combat and prevent public and private corruption, including measures with respect to tax evasion and money laundering and has ratified the Convention on Combating Bribery of Foreign Public Officials in Inter-
national Business Transactions of the Organization for Economic Cooperation and Development;

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

(8) has in force adequate environmental laws and regulations, has devoted sufficient resources to implementing such laws and regulations, and has an adequate record of enforcement of such law and regulations;

(9) enforces the rights and flexibilities of the TRIPS Agreement; and

(10) provides for government transparency, due process of law, and respect for international agreements.

(d) NATIONAL SECURITY ANALYSIS.—The report required by subsection (a) shall include with respect to each trade agreement country an assessment of the country’s transfer of technology, production, and services and an analysis of whether the country poses a potential concern to the national security of the United States.

(e) RECOMMENDATIONS.—Each report required under subsection (a) shall include recommendations of the Comptroller General for addressing the problems identified under subsections (b), (c), and (d) with respect to each trade agreement. The recommendations shall include
suggestions for renegotiating the agreement based on the
requirements described in section 4(b).

(f) C ITATIONS.—The Comptroller General shall in-
clude in the report required under subsection (a) citations
to the sources of data used in preparing the report and
a description of the methodologies employed in preparing
each report.

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

(1) hold hearings that are open to the public;

and

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

(h) P UBLIC A VAILABILITY.—Each report required
under subsection (a) shall be made available to the public
not later than 14 days after the Comptroller General com-
pletes the report.

SEC. 4. INCLUSION OF CERTAIN PROVISIONS IN TRADE
AGREEMENTS.

(a) I N GENERAL.—Notwithstanding section 151 of
the Trade Act of 1974 (19 U.S.C. 2191) or any other pro-
vision of law, any bill implementing a trade agreement be-
tween the United States and another country that is intro-
duced in Congress after the date of the enactment of this
Act shall be subject to a point of order pursuant to subsection (e) unless the trade agreement meets the requirements described in subsection (b).

(b) REQUIREMENTS.—Each trade agreement between the United States and another country with respect to which an implementing bill is introduced on or after the date of the enactment of this Act shall meet the following requirements:

(1) LABOR STANDARDS.—The labor provisions of the agreement shall—

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

(B) require each country that is a party to the agreement—

(i) to adopt and maintain laws and regulations (including laws applicable to any designated zone in the country) that establish core labor rights; and

(ii) to effectively enforce laws relating to core labor rights and laws relating to acceptable conditions of work (including laws relating to minimum wages, hours of work, and occupational safety and health);

(C) prohibit a country that is a party to the agreement from waiving or otherwise dero-
gating from, or offering to waive or otherwise
derogue from, the country’s laws and regulations relating to the core labor rights and acceptable conditions of work described in sub-
paragraph (B);

(D) provide that failures to meet the labor requirements of the agreement, regardless of the effect that failure has on trade, shall be subject to the dispute resolution and enforcement mechanisms and penalties of the agreement;

(E) provide that enforcement mechanisms and penalties for failures described in subpara-
graph (D) are included in the core text of the agreement and are at least as effective as the mechanisms and penalties that apply to the commercial provisions of the agreement;

(F) strengthen the capacity of each country that is a party to the agreement to promote, protect, and enforce core labor rights;

(G) require that each country that is a party to the agreement have a national contact point for every labor complaint, produce a report that addresses all the issues raised in the complaint and include recommendations on all
confirmed allegations, including specific recom-
mandations for employers directly or indi-
rectly implicated in the complaint; and

(H) require that—

(i) there is a full and expeditious re-
mediation of all labor complaints; and

(ii) the remediation plan is satisfac-
tory to all parties and conforms to the
findings and recommendations of the na-
tional contact point described in subpara-
graph (G).

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

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

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

(C) require each such country to imple-
ment and enforce fully and effectively the coun-
try’s obligations under multilateral environ-
mental 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;

(E) provide that the failure to meet the environmental standards required by the agreement be 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; and

(F) allow each country that is a party to the agreement to adopt and implement environmental, health, and safety standards, recognizing the legitimate right of governments to protect the environment and public health and safety.

(3) Food and product health and safety standards.—If the agreement contains health and
safety laws and regulations for food and other products, the agreement shall—

(A) establish that food, feed, food ingredients, and other products relating to food may be imported into the United States from a country that is a party to the agreement only if such food and related products meet or exceed United States laws and regulations with respect to food safety, pesticides, inspections, packaging, and labeling;

(B) establish that nonfood products may be imported into the United States from a country that is a party to the agreement only if such products meet or exceed United States laws and regulations with respect to health and safety, inspection, packaging, and labeling;

(C) authorize the Commissioner of the Food and Drug Administration (in this Act, referred to as the “Commissioner”) and the Consumer Product Safety Commission (in this Act, referred to as the “Commission”) to assess the regulatory system of each country that is a party to the agreement to determine whether the regulatory system of that country provides the same or better protection of health and
safety for food and other products as provided
under the regulatory system of the United States;

(D) if the Commissioner or the Commis-
sion determines that the regulatory system of a
country does not provide the same or better
protection of health and safety for food and
other products as provided under the regulatory
system of the United States, the agreement
shall provide that the President may tempo-
rarily suspend the importation into the United
States of food and other products from that
country;

(E) provide a process for inspecting and
approving facilities in countries that the Com-
missioner or the Commission have found do not
meet United States laws and regulations with
respect to health and safety in order to allow
products from approved facilities to be imported
into the United States; and

(F) if harmonization of food or product
health or safety laws and regulations is nec-
essary to facilitate trade, the agreement shall
provide that such harmonization shall be based
on standards that are no less stringent than
United States laws and regulations.

(4) SERVICES PROVISIONS.—If the agreement contains provisions relating to services, such provi-
sions shall—

(A) preserve the right of Federal, State, and local governments to maintain essential public services and to regulate, for the benefit of the public, services provided to consumers;

(B)(i) provide that a service is not subject to the agreement unless a country that is a party to the agreement establishes a positive list of each service sector that will be subject to the obligations of the country under the agree-
ment; and

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

(C) establish a general exception to the market access obligations contained in the agreement by allowing a country that is a party to the agreement to maintain or establish a ban on services that the country considers harmful to public health or safety, the environment, or public morals if the ban is applied to domestic
and foreign services and service providers equally;

(D) require service providers in a country that is a party to the agreement that provide services through a commercial presence in the United States to consumers in the United States to comply with applicable United States environmental, land use, safety, privacy, transparency, professional qualification, and consumer access laws and regulations;

(E) require that services provided to consumers in the United States that would be subject to privacy laws and regulations in the United States may only be provided by service providers in other countries if those countries have privacy protections and protections regarding confidential information that are equal to or exceed the protections provided by United States privacy laws and regulations;

(F) provide that privatization of public services in any country that is a party to the agreement or the deregulation of a service is not required, including services relating to national security, social security, health, public
safety, education, water, sanitation, other utilities, ports, or transportation; and

(G) provide that local governments are not subject to the service sector obligations under the agreement.

(5) INVESTMENT PROVISIONS.—If the agreement contains provisions relating to investment, such provisions shall—

(A) preserve the ability of each country that is a party to the agreement to regulate foreign investment in a manner consistent with the needs and priorities of the country;

(B) preserve the ability of each country to place prudential restrictions on speculative capital to promote financial stability;

(C) ensure that foreign investors operating in the United States are not afforded greater procedural or substantive rights under the trade agreement than those afforded to domestic investors under the Constitution and laws of the United States;

(D) ensure that the adoption or application by any government of a nondiscriminatory measure intended to serve a public purpose is
not prohibited by the agreement and is not a violation of the agreement;

(E) provide that the term "investment" only means a commitment of capital or the acquisition of real property as understood under the laws of the country that is a party to the agreement and excludes the assumption of risk or expectation of gain or profit;

(F) provide that the term "investor" means only a person who makes a commitment or an acquisition described in subparagraph (E);

(G) limit protections against expropriations to direct expropriation of real property and provide that "direct expropriation" means government action that does not merely diminish the value of real property but destroys all value of the real property permanently; and

(H) define the standard of minimum treatment to provide that foreign investors do not have greater legal rights than United States citizens possess under the due process clause of section 1 of the 14th Amendment to the Constitution.
(6) PROCUREMENT STANDARDS.—If the agreement contains government procurement provisions, such provisions shall—

(A) provide that an industry sector, goods, and services are not subject to an agreement unless a country that is a party to the agreement establishes a positive list of industry sectors, goods, and services that will be subject to the obligations of the country under the agreement;

(B) with respect to the United States, apply only to a State that specifically agrees to the agreement and only to the industry sectors, goods, and services specifically identified by the State government and shall not apply to local governments; and

(C) include only technical specifications for goods or services, or supplier qualifications or other conditions for receiving government contracts that do not undermine—

(i) prevailing wage policies;
(ii) recycled content policies;
(iii) sustainable harvest policies;
(iv) renewable energy policies;
(v) human rights; or
(vi) project labor agreements.

(7) INTELLECTUAL PROPERTY REQUIREMENTS.—If the agreement contains provisions related to the protection of intellectual property rights, such provisions shall—

(A) promote adequate and effective protection of intellectual property rights;

(B) include only terms relating to patents that do not, overtly or in application, limit the flexibilities and rights established in the Declaration on the TRIPS Agreement and Public Health, adopted by the World Trade Organization at the Fourth Ministerial Conference at Doha, Qatar, on November 14, 2001, particularly the flexibilities and rights relating to the promotion of access to medicines and the issuance of compulsory licenses on grounds determined by member states; and

(C) require that any provisions relating to the patenting of traditional knowledge be consistent with the Convention on Biological Diversity, concluded at Rio de Janeiro June 5, 1992.

(8) AGRICULTURAL STANDARDS.—If the agreement contains provisions relating to agriculture, such provisions shall—
(A) protect the right of each country that is a party to the agreement to establish policies with respect to food and agriculture that allow for inventory management and strategic food and renewable energy reserves, if such policies do not contribute to or allow the dumping of agricultural commodities in world markets at prices lower than the cost of production;

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

(C) ensure that all laws relating to anti-trust and anti-competitive business practices remain fully in effect, and that enforceability of those laws is neither preempted nor compromised in any manner;

(D) ensure adequate and affordable supplies of safe food for consumers;

(E) protect the right of each country that is a party to the agreement to encourage conservation through the use of best practices with respect to the management and production of agricultural commodities;
(F) ensure fair treatment of farm laborers in each such country; and

(G) not conflict with agricultural policy established in the laws of the United States.

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

(A) preserve fully the ability of the United States to enforce the trade laws of the United States, including antidumping and countervailing duty laws and safeguard laws;

(B) ensure the continued effectiveness of domestic and international prohibitions on unfair trade, especially prohibitions on dumping and subsidies, and domestic and international safeguard provisions;

(C) establish mechanisms to address and remedy market distortions that lead to dumping and subsidization, including overcapacity, cartelization, and market-access barriers, by imposing strong sanctions against subsidies, including applying countervailing duty laws in cases where exporters receive tax rebates for indirect taxes upon export;
(D) allow the United States to maintain adequate safeguards to ensure that surges of imported goods do not result in economic burdens on workers, firms, or farmers in the United States, including providing that such safeguards go into effect automatically based on certain criteria;

(E) establish mechanisms among the parties to the agreement to examine the trade consequences of significant currency movements and to scrutinize whether a country’s currency is misaligned in order to promote a competitive advantage in international trade; and

(F) if the currency of a country that is a party to the agreement is deliberately misaligned, establish safeguard remedies that apply automatically to offset substantial and sustained currency movements.

(10) DISPUTE RESOLUTION AND ENFORCEMENT PROVISIONS.—If the agreement contains provisions relating to dispute resolution, such provisions shall—

(A) incorporate the due process protections of the Constitution, as well as provisions relat-
ing to access to documents, open hearings, transparency, and fair and impartial tribunals;

(B) require that any dispute settlement panel, including an appellate panel, dealing with intellectual property rights or environmental, health, labor, and other public law issues include panelists with expertise in the issues that are the subject of the dispute; and

(C) provide that dispute resolution proceedings are open to the public and provide timely public access to information regarding enforcement, disputes, and ongoing negotiations relating to disputes.

(11) TECHNICAL ASSISTANCE.—If the agreement contains technical assistance provisions, such provisions shall—

(A) be designed to raise standards in developing countries by providing assistance in a manner that ensures diversity of development;

(B) be designed to empower civil society and democratic governments to create sustainable, vibrant economies and respect basic rights; and

(C) not supplant economic assistance or promote the exportation of goods produced with
the exploitation of labor or methods that support unsustainable natural resources.

(12) **Exceptions for National Security and Other Reasons.**—Each agreement shall—

(A) include an essential security exception to the provisions of the agreement that permits a country that is a party to the agreement to apply measures that the country considers necessary for the maintenance or restoration of international peace or security, or the protection of its essential security interests;

(B) explicitly state that if a country invokes the essential security exception in a dispute settlement proceeding relating to any matter other than compliance with the agreement’s worker rights, environment, human rights, health, or safety provisions, the dispute settlement body hearing the matter shall find that the exception applies;

(C) include the following language: “Notwithstanding any other provision of this agreement, a provision of law that is nondiscriminatory on its face and relates to domestic health, consumer safety, the environment, labor rights, worker health and safety, consumer ac-
cess, the provision of goods or services, or in-
vestment, shall not be subject to challenge
under the dispute resolution mechanism estab-
lished under this agreement, unless a principal
purpose of the law is to discriminate with re-
spect to market access.”; and

(D) include a provision that gives priority
to the implementation of bilateral or multilat-
eral agreements relating to public health,
human and labor rights, the environment, or
other public interest goals in the event of any
inconsistency between the trade agreement and
such bilateral or multilateral agreement.

(13) FEDERALISM.—The trade agreement may
only require a State government in the United
States to comply with procurement, investment, or
services provisions contained in the trade agreement
if the State government has been consulted in full
and has given explicit consent to be bound by such
provisions.

(c) POINT OF ORDER IN SENATE.—The Senate shall
cease consideration of a bill to implement a trade agree-
ment introduced on or after the date of enactment of this
Act if—
(1) a point of order is made by any Senator
against the bill based on the noncompliance of the
trade agreement with the requirements of subsection
(b); and

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

(d) WAIVERS AND APPEALS.—

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

(2) APPEALS.—After the Presiding Officer
rules on a point of order described in subsection (c),
any Senator may appeal the ruling of the Presiding
Officer on the point of order as it applies to some
or all of the provisions on which the Presiding Offi-
cer ruled. A ruling of the Presiding Officer on a
point of order described in subsection (c) is sus-
tained unless 60 Members of the Senate, duly cho-
sen and sworn, vote not to sustain the ruling.

(3) DEBATE.—Debate on the motion to waive
under paragraph (1) or on an appeal of the ruling
of the Presiding Officer under paragraph (2) shall be limited to 1 hour. The time shall be equally divided between, and controlled by, the majority leader and the minority leader of the Senate, or their designees.

SEC. 5. RENEGOTIATION OF EXISTING TRADE AGREEMENTS.

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

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

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

SEC. 6. SENSE OF CONGRESS ON IMPROVING THE PROCESS FOR UNITED STATES TRADE NEGOTIATIONS.

It is the sense of Congress that if Congress considers legislation to provide for special procedures for the consideration of bills to implement trade agreements, that legislation shall include—

(1) criteria for the President to use in determining whether a country—
(A) is able to meet its obligations under a trade agreement;

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

(C) is willing and able to meet the requirements described in section 4(b);

(2) a process by which the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives review the determination of the President described in paragraph (1) to verify that the country meets the criteria;

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

(4) binding negotiating objectives and requirements outlining what must and must not be included in a trade agreement, including the requirements described in section 4(b);

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

(6) a process—

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

(B) that prevents a State from being bound by the provisions described in subparagraph (A) if the State has not consented; and

(7) a requirement that a trade agreement be approved by a majority vote in both Houses of Congress before the President may sign the agreement.