

Brown, Dorgan, Michaud, Sanchez, And Colleagues; Labor Leaders; Fair Trade Activists Unveil The Trade Act

Legislation Would Create New Path For U.S. Trade Policy

June 4, 2008

WASHINGTON – United States Senator Sherrod Brown (D-OH) today was joined by Senator Byron Dorgan (D-ND), Congressman Mike Michaud (D-ME), Congresswoman Linda Sanchez (D-Lakewood), and other members of Congress at a Capitol Hill news conference to introduce the Trade Reform, Accountability, Development, and Employment (TRADE) Act.

Endorsed by more than a dozen fair trade groups, the TRADE ACT is a first of its kind pro-trade bill that would revamp U.S. trade policy. The bill would mandate trade pact reviews, establish standards, protect workers in developing nations, and would help restore Congressional oversight of future trade agreements.

“The TRADE ACT will help Congress and the White House craft a trade agreement that benefits workers, business owners, and our country,” said Brown. “We want trade, and we want more of it. The TRADE Act is a critical first step on a new path for trade.”

Brown, who led the bipartisan House opposition to the Central American Free Trade Agreement, was also joined by International Brotherhood of Teamsters President James Hoffa, Communication Workers of America President Larry Cohen, and fair trade advocates from faith-based, farm, and environmental groups.

“Trade done right means new jobs and new industry at home – and means lifting up workers in developing nations,” Brown said. “For too long our nation’s trade policy has exploited workers, betrayed middle class families, and destroyed communities. It is time for a trade policy that works for everyone, not just a few.”

The TRADE ACT would:

- Require the Government Accountability Office to conduct a comprehensive review of existing trade agreements with an emphasis on economic results, enforcement and compliance, and an analysis of non-tariff provisions in trade agreements;
- Spell out standards for labor and environmental protections, food and product safety, national security exceptions, and remedies that must be included in new trade pacts;
- Set requirements with respect to public services, farm policy, investment, government procurement, and affordable medicines that have been incorporated in trade agreements;
- Require the president to submit renegotiation plans for current trade pacts prior to negotiating new agreements and prior to congressional consideration of pending agreements;
- Create a committee comprised of the chairs and ranking members of each committee

whose jurisdiction is affected by trade agreements to review the president's plan for renegotiations; and

- Restore Congressional oversight of trade agreements.

A copy of the bill language is to the right

Press Contacts:

(202)-224-3978

H.R. 6180/S. 3083:

The TRADE Act

(Trade Reform, Accountability, Development and Employment Act)

TRADE Act Addresses American Public's Demand for Change During Presidential Campaign With a New Way Forward on Trade, Globalization

Sen. Sherrod Brown (D-Ohio) and Rep. Mike Michaud (D-Maine) have worked with an array of labor, environmental, consumer, faith and family farm organizations to develop a bill that presents a progressive vision of what a good trade agreement must and must not include. This initiative sets forth **what we are for** – shutting down the bogus claim that we are anti-trade or have no alternative vision because we oppose the North American Free Trade Agreement (NAFTA), Central America Free Trade Agreement (CAFTA), World Trade Organization (WTO) and similar damaging trade agreements.

What does the bill do?

The TRADE Act requires a **review** of existing trade pacts, including NAFTA, the WTO and other major pacts, and sets forth **what must and must not be included in future trade pacts**. It also provides for the **renegotiation** of existing trade agreements and describes the key elements of **a new trade negotiating and approval mechanism to replace Fast Track** that would enhance Congress' role in the formative aspects of agreements and promote future deals that could enjoy broad support among the American public.

The TRADE Act shifts the debate towards discussing **a new trade and globalization model**. It moves beyond repeatedly fighting against expansions of the old failed model and sets a marker for where discussion should start with a new Congress and president in 2009. One of our nation's greatest challenges is to create new rules for globalization that ensure economic security and the creation of quality jobs here, while offering opportunities for sustainable development in poor countries. Such rules would counter rising income inequality and the threats our current policies pose to national security, our shared global environment, public health and safety, and democratic accountability.

We must take action *now* to shape the future debate. The TRADE Act recognizes the Democratic presidential candidates' calls to renegotiate some pacts and brings Congress into this process.

The TRADE ACT includes:

Section 2: Lists of which trade agreements must be reviewed and definitions of the labor and environmental standards all agreements must contain.

Section 3: Requirements for the Government Accountability Office to conduct a comprehensive review of existing major trade agreements by June 10, 2010, including economic outcomes in the U.S. and abroad and various security and social indicators. The TRADE Act also requires an analysis of how the current agreements measure up against the detailed description in the bill of what must and must not be included in future U.S. trade agreements.

Section 4: Labor, environment, food and product safety standards; national security exceptions; and trade remedy and federalism protections that must be included in all American trade pacts. Because NAFTA-model

trade agreements extend far beyond traditional trade matters, this section also sets requirements with respect to public services, farm policy, investment, government procurement, and affordable medicines.

Section 5: Requirement for the president to submit renegotiation plans to remedy the gaps identified by the Comptroller General between our current pacts and the criteria for good agreements listed in section 4 *prior* to negotiating new agreements and prior to congressional consideration of pending agreements.

Section 6: Establishment of a committee comprised of the chairs and ranking members of each committee whose jurisdiction is implicated by today’s expansive “trade” agreements to review the president’s plan for renegotiations.

Section 7: A sense-of-the-Congress provision that sets out criteria for a new mechanism to replace the Fast Track negotiating process. To obtain agreements that benefit a wider array of interests, this new process includes Congress setting readiness criteria to select future negotiating partners; mandatory negotiating objectives based on the Section 4 criteria of what must be and must not be in future trade agreements; and the requirements that Congress must certify that the objectives were met, and then vote on an agreement *before* it can be signed. These criteria for a new trade negotiating mechanism to replace Fast Track have been supported in AFL-CIO, Change to Win and National Farmers Union resolutions.

TRADE Act support:

AFL-CIO
Change to Win
Communication Workers of America
International Association of Machinists and Aerospace Workers
International Brotherhood of Boilermakers
International Brotherhood of Electrical Workers
International Brotherhood of Teamsters
International Union of Painters and Allied Trades
United Steelworkers
UNITE-HERE

United Methodist Church General Board of Church and Society
Friends of the Earth
Sierra Club
National Farmers Union
National Family Farm Coalition
Institute for Agriculture and Trade Policy
Americans for Democratic Action
Public Citizen
Citizens Trade Campaign

House Original Cosponsors:

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|---------------------|-------------------|------------------------|----------------------------------|
| 1. Collin Peterson | 15. Danny Davis | 29. Betty Sutton | 43. <i>Walter Jones</i> |
| 2. Nick Rahall | 16. Dale Kildee | 30. Jesse Jackson | 44. Tammy Baldwin |
| 3. John Conyers | 17. Raul Grijalva | 31. Dan Lipinski | 45. Marcy Kaptur |
| 4. Robert Brady | 18. Lynn Woolsey | 32. Keith Ellison | 46. Dennis Kucinich |
| 5. Bob Filner | 19. Peter DeFazio | 33. Gene Green | 47. Carol Shea-Porter |
| 6. John Murtha | 20. Heath Shuler | 34. Al Green | 48. Mazie Hirono |
| 7. Rosa DeLauro | 21. Bruce Braley | 35. Hilda Solis | 49. Michael Arcuri |
| 8. Maurice Hinchey | 22. Dave Loebsack | 36. Ben Chandler | 50. Patrick Murphy |
| 9. Bill Delahunt | 23. John Hall | 37. Carolyn Kilpatrick | 51. Steve Kagen |
| 10. Jan Schakowsky | 24. Tim Ryan | 38. Gwen Moore | 52. Charlie Wilson |
| 11. Linda Sanchez | 25. Nancy Boyda | 39. Mike Doyle | 53. Frank Pallone |
| 12. Tim Holden | 26. Hank Johnson | 40. Emmanuel Cleaver | 54. Michael Michaud
(sponsor) |
| 13. Mike Ross | 27. John Sarbanes | 41. Tom Allen | |
| 14. Peter Visclosky | 28. Phil Hare | 42. Stephen Lynch | |

Senate Original Cosponsors:

1. Byron Dorgan 2. Russ Feingold 3. Bob Casey 4. Sheldon Whitehouse 5. Sherrod Brown (sponsor)

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(Original Signature of Member)

110TH CONGRESS
2nd SESSION

H.R._____

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

Mr. MICHAUD (for himself and [see ATTACHED LIST of cosponsors]) introduced the following bill; which was referred to the Committee on _____

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 Representatives of the*
2 *United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Trade Reform, Accountability,
5 Development, and Employment Act of 2008” or the “TRADE Act of
6 2008”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

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

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

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

16 (C) the effective abolition of child labor; and

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

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

24 (3) TRADE AGREEMENTS.—

1 (A) IN GENERAL.—The term “trade agreement” includes
2 the Free Trade Agreements entered into with Australia,
3 Bahrain, Chile, Israel, Jordan, Morocco, Oman, Peru and
4 Singapore as well as the North American Free Trade
5 Agreement (NAFTA) and the Dominican Republic-Central
6 America- U.S. Free Trade Agreement (CAFTA).

7 (B) URUGUAY ROUND AGREEMENTS.—The term “trade
8 agreement” includes—

9 (i) the General Agreement on Tariffs and Trade
10 (GATT 1994) annexed to the WTO Agreement;

11 (ii) the WTO Agreement described in section 2(9) of
12 the Uruguay Round Agreements Act (19 U.S.C.
13 3501(9)); and

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

16 (iv) the post Uruguay Round sectoral agreements on
17 information technology, telecommunications and
18 financial services; and

19 (v) any future WTO agreements that may result from
20 post Uruguay Round WTO negotiations.

21

22 **SEC. 3. REVIEW AND REPORT ON EXISTING TRADE**
23 **AGREEMENTS.**

24 (a) In General.—Not later than June 30, [2010], and every 2 years
25 thereafter, the Comptroller General of the United States shall conduct

1 a review of all trade agreements described in Section 2(3) and submit
2 to the Congressional Trade Agreement Review Committee established
3 under section 6 a report that includes the information required under
4 subsections (b) and (c) and makes the recommendations required
5 under subsection (d):

6 (1) This review shall relate to the effective operation of the
7 United States trade agreements program generally;

8 (2) The State Department, Department of Agriculture,
9 Department of Commerce, Department of Labor, Department of
10 the Treasury and other executive branch agencies shall cooperate
11 with the Comptroller General of the United States and the
12 Government Accountability Office in providing access to foreign
13 and U.S. government officials and documents to facilitate the
14 report required; and

15 (3) The Comptroller General of the United States and the
16 Government Accountability Office are encouraged to use the
17 findings of recent reports and those now being produced in
18 compiling the information required so as to enhance the efficiency
19 of the process.

20 (b) Information With Respect to Trade Agreements.—The report
21 required under subsection (a) shall, with respect to each trade
22 agreement described in Section 2(3), include the following
23 information covering the period between the date on which the
24 agreement entered into force and the date on which the Comptroller
25 General completes the review:

26 (1) An analysis of the economic impact of each trade

1 agreement, including—

2 (A) the dollar value in inflation-controlled terms of goods
3 exported from the United States and imported into the United
4 States by sector, State, and year delineated by trade partner
5 country;

6 (B) job gains and losses in the United States by sector and
7 State;

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

10 (D) an analysis of production outsourcing decisions made
11 by U.S. companies before and after the implementation of
12 each trade agreement and the rate of value-added production,
13 number of employees, and competitive position of industries
14 in the United States significantly affected by the agreement;
15 and

16 (E) Income distribution in the United States showing
17 distribution by quintile and poverty rates for the United
18 States.

19 (2) A trend analysis of wage levels in inflation-controlled
20 dollars on a year-by-year basis in

21 (A) countries with whom the United States has trade
22 agreements described in Section 2(3)(A);

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

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

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

7 (E) Cambodia and Vietnam.

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

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

15 (B) An analysis of the effects, if any, on price
16 transparency, price discovery, market concentration, and fair
17 competition in the markets for agricultural commodities and
18 food products that are subject to significant volumes of trade
19 between the United States and each other country that is a
20 party to the agreements described in Section 2(3);

21 (C) An analysis of the effects, if any, on the cost of farm
22 programs in the United States and each other country under
23 the scope of Section 3(b)(5); and

24 (D) The number of farms operating in the United States
25 and the number of acres under production for agricultural
26 commodities that are exported from the United States to any

1 other country that is a party to the agreement on a year-by-
2 year basis.

3 (4) An analysis of compliance with the terms of the relevant
4 agreements in effect between the United States and each country
5 listed in Section 3(b)(2) including a description of any
6 outstanding disputes between the United States and any country
7 that is a party to the agreements listed in Section 2(3), and the
8 status of all laws, regulations, or policies of the United States or
9 any State that any country that is a party to such an agreement has
10 challenged, or threatened to challenge, under the agreements.

11 (5) An analysis of the adequacy of the U.S. capacity to ensure
12 trade agreement partners' compliance with Customs and other
13 U.S. regulatory requirements, including as regards the agreements
14 listed in Section 2(3): ensuring duty payment and amount of
15 duties collected by the United States on goods imported into the
16 United States; an analysis of the rate and adequacy of inspections
17 of food and other products imported; and an assessment of the
18 extent to which goods produced in a country that is a party to the
19 agreements listed in Section 2(3) are transshipped through other
20 countries with which the United States has a bilateral or regional
21 agreement in effect that may result in a rate of duty on such goods
22 that is lower than the rate of duty under the agreement.

23 (6) A description of any privatization of public sector services,
24 in the United States or in any country that is a party to the
25 agreements listed in Section 2(3), if those sectors are covered by
26 investment, financial services, or services provisions of the
27 agreement, including an analysis of any effect such privatization

1 has had on the access of consumers to essential services, such as
2 health care, electricity, gas, water, telephone service, or other
3 utilities.

4 (7) An analysis of the price of pharmaceuticals and any effect
5 that changes in the price of pharmaceuticals has had on the access
6 of consumers to affordable medicines in the United States or any
7 country that is a party to the agreements listed in Section 2(3).

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

11 (A) any potential effect on the efforts of the United States
12 to increase the energy self-sufficiency of the United States;

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

16 (C) any increase in poverty in any such country as a result
17 of the displacement of workers in sectors impacted by the
18 agreement.

19 (9) An analysis of trends in the number of immigrants,
20 including undocumented immigrants, entering the United States
21 on a year-by-year basis from each country that is a party to the
22 agreements listed in Section 2(3).

23 (10) An assessment of the consequences of significant
24 currency movements and a determination of whether the currency
25 of a country that is a party to the agreements listed in Section 2(3)
26 is misaligned deliberately to promote a competitive advantage in

1 international trade for that country; and

2 (11) An analysis of contracts for the procurement of goods or
3 services by Federal or State government agencies from persons
4 operating in any country that is a party to the agreements listed in
5 Section 2(3).

6 (c) Information on Countries That Are Parties to Trade
7 Agreements.—With respect to each country with respect to which the
8 United States has a trade agreement listed in Section 2(3) in effect, the
9 report required under subsection (a) shall include information
10 regarding whether that country—

11 (1) has a democratic form of government;

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

17 (3) respects fundamental human rights, as determined by the
18 Secretary of State in the annual country reports on human rights
19 of the Department of State;

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

23 (5) is on a list described in subparagraph (B) or (C) of section
24 110(b)(1) of the Trafficking Victims Protection Act of 2000 (22
25 U.S.C. 7107(b)(1)) (commonly known as tier 2 or tier 3 of the
26 Trafficking in Persons List of the Department of State);

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

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

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

10 (9) adequately protects intellectual property rights; and

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

13 (d) Recommendations.—Each report required under subsection (a)
14 shall include recommendations of the Comptroller General for
15 addressing the problems with respect to an agreement identified under
16 subsections (b) and (c). The recommendations shall include
17 suggestions for renegotiating the agreement to meet the requirements
18 described in section 4(b) and for negotiations with respect to new
19 trade agreements.

20 (e) Citations.—The Comptroller General shall include in the report
21 required under subsection (a) citations to the sources of data used in
22 preparing the report and a description of the methodologies employed
23 in preparing the report.

24 (f) Public Comment.—In preparing each report required under
25 subsection (a), the Comptroller General shall—

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

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

3 (g) Public Availability.—The information in each report required
4 under subsection (a) shall be made available to the public not later
5 than 14 days after the Comptroller General completes that report.

6

7 **SEC. 4. INCLUSION OF CERTAIN PROVISIONS IN TRADE**
8 **AGREEMENTS.**

9 (a) In General.—Notwithstanding section 151 of the Trade Act of
10 1974 (19 U.S.C. 2191) or any other provision of law, any bill
11 implementing a trade agreement between the United States and
12 another country that is introduced in Congress after the date of the
13 enactment of this Act shall not be subject to expedited consideration
14 or special procedures regarding amendment or debate unless the trade
15 agreement meets the requirements described in subsection (b).

16 (b) Requirements.—Each trade agreement negotiated between the
17 United States and another country shall meet the following
18 requirements:

19 (1) LABOR STANDARDS.—The labor provisions shall—

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

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

24 (C) provide that failures to meet the labor standards
25 required by the agreement shall be subject to dispute

1 resolution and enforcement mechanisms and penalties that
2 are at least as effective as the mechanisms and penalties that
3 apply to the commercial provisions of the agreement;

4 (D) strengthen the capacity of each country that is a party
5 to the agreement to promote and enforce core labor
6 standards; and

7 (E)(i) establish a commission composed of—

8 (I) 11 representatives specializing in international and
9 comparative labor rights of which five shall be
10 representatives of independent labor unions of countries
11 who are parties to the agreement and two shall be
12 academic researchers; and

13 (ii) provide the commission with sufficient resources and
14 staff to rigorously and continuously carry out its functions;

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

18 (iv) vest the commission with authority to operate with the
19 rights of a Party in the agreement's dispute resolution
20 system—

21 (I) initiate complaints in an agreement's dispute
22 settlement system under expedited procedures included
23 in Section 4(11) with respect to violations of the
24 obligations set forth in subparagraphs (B), (C), and (D)
25 thus ensuring that labor standards violations are subject
26 to dispute resolution and enforcement mechanisms and
27 penalties that are at least as effective as the mechanisms

1 and penalties that apply to the commercial provisions of
2 the agreement;

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

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

12 (IV) review and comment on the dispute resolution
13 panel's preliminary ruling with transmission of the
14 preliminary ruling to the commission to occur
15 simultaneously with transmission of the preliminary
16 ruling to the country or countries involved.

17 (V) be treated with the status of a Party to the dispute
18 throughout all subsequent procedures of appeal,
19 enforcement action or sanction arbitration so as to
20 ensure a country's compliance with the obligations set
21 forth in subparagraphs (B), (C), and (D) or the imposition
22 of penalties of sufficient magnitude to ensure full and
23 immediate compliance with the obligations set forth in
24 subparagraphs (B), (C), and (D) and as appropriate
25 incremental reductions in trade penalties as benchmarks
26 are achieved; and

1 a. Any subsequent appeal or sanction
2 arbitration panel shall be comprised with
3 minimally two panelists with labor rights
4 expertise.

5 (v) vest the commission with authority to set benchmarks
6 for increasing compliance with such obligations;

7 (vi) verify that benchmarks have in fact been achieved;
8 and

9 (F) require any country that is a party to the agreement
10 to—

11 (i) cooperate fully with investigations by the
12 commission required under subparagraph (E);

13 (ii) ensure full access by the commission to
14 workplaces and government agencies responsible for
15 enforcement of labor rights and standards;

16 (iii) ensure that commission personnel are able to
17 conduct confidential interviews with workers, managers,
18 and government officials;

19 (iv) ensure full access by the commission to relevant
20 documents of employers and government agencies; and

21 (v) ensure that workers who seek to enforce
22 obligations described in this paragraph are protected
23 against reprisal by employers.

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

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

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

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

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

17 (E) provide that the failure to meet the environmental
18 standards required by the agreement be subject to dispute
19 resolution and enforcement mechanisms and penalties that
20 are at least as effective as the mechanisms and penalties that
21 apply to the commercial provisions of the agreement; and

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

26 (3) FOOD AND PRODUCT HEALTH AND SAFETY STANDARDS.—If

1 the agreement contains health and safety standards for food and
2 other products, the agreement shall—

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

9 (B) establish that nonfood products may be imported into
10 the United States from a country that is a party to the
11 agreement only if such products meet or exceed United
12 States standards with respect to health and safety,
13 inspections, packaging, and labeling;

14 (C) allow each country that is a party to the agreement to
15 impose standards designed to protect public health and safety
16 unless it can be clearly demonstrated that such standards do
17 not protect the public health or safety;

18 (D) authorize the Commissioner of the Food and Drug
19 Administration and the Consumer Product Safety
20 Commission to assess the regulatory system of each country
21 that is a party to the agreement to determine whether the
22 system provides the same or better protection of health and
23 safety for food and other products as provided under the
24 regulatory system of the United States;

25 (E) if the Commissioner or the Commission determines
26 that the regulatory system of such a country does not provide

1 the same or better protection of health and safety for food
2 and other products as provided under the regulatory system
3 of the United States, prohibit the importation into the United
4 States of food and other products from that country;

5 (F) provide a process by which producers from countries
6 whose standards are not found by the Commissioner or the
7 Commission to meet U.S. standards may have specific
8 facilities inspected and certified so as to allow products from
9 approved facilities to be imported into the United States;

10 (G) if harmonization of food or product health or safety
11 standards is necessary to facilitate trade, such harmonization
12 shall be based on standards that are no less stringent than
13 United States standards; and

14 (H) establish mandatory end-use labeling of imports of
15 milk protein concentrates.

16 (4) SERVICES PROVISIONS.—If the agreement contains
17 provisions related to the provision of services, such provisions
18 shall—

19 (A) preserve the right of Federal, State, and local
20 governments to maintain essential public services and to
21 regulate, for the benefit of the public, services provided to
22 consumers in the United States;

23 (B)(i) require each country that is a party to the agreement
24 to establish a positive list of each service sector that will be
25 subject to the obligations of the country under the agreement;
26 and

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

3 (C) establish a general exception to market access
4 obligations that allows a country that is a party to the
5 agreement to maintain or establish a ban on services the
6 country considers harmful, if the ban is applied to domestic
7 and foreign services and service providers alike;

8 (D) require service providers in any country that is a party
9 to the agreement that provide services to consumers in the
10 United States to comply with United States environmental,
11 land use, safety, privacy, transparency, professional
12 qualification, and consumer access laws and regulations;

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

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

26 (G) not subject local governments to the service sector

1 obligations under the agreement; and

2 (H) not include provisions with respect to immigration or
3 the movement of natural persons.

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

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

9 (B) allow each such country to place prudential restrictions
10 on speculative capital to reduce global financial instability
11 and trade volatility;

12 (C) not be subject to an investor-state dispute settlement
13 mechanism under the agreement;

14 (D) ensure that foreign investors operating in the United
15 States have rights no greater than the rights provided to
16 domestic investors by the Constitution of the United States;

17 (E) provide for government-to-government dispute
18 resolution relating to a government action that destroys all
19 value of the real property of a foreign investor;

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

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

1 (H) define the term “direct expropriation” as government
2 actions that do not merely diminish the value of property but
3 destroy all value of the property permanently;

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

10 (J) define the standard of minimum treatment to provide no
11 greater legal rights than United States citizens possess under
12 the due process clause of section 1 of the 14th amendment to
13 the Constitution of the United States.

14 (6) PROCUREMENT STANDARDS.—If the agreement contains
15 government procurement provisions, such provisions shall—

16 (A) require each country that is a party to the agreement to
17 establish a positive list of industry sectors, goods, or services
18 that will be subject to the obligations of the country under the
19 agreement;

20 (B) with respect to the United States, apply only to State
21 governments that specifically agree to the agreement and
22 only to the industry sectors, goods, or services specifically
23 identified by the State government and not apply to local
24 governments; and

25 (C) include only technical specifications for goods or
26 services, or supplier qualifications or other conditions for

1 receiving government contracts that do not undermine—

2 (i) prevailing wage policies;

3 (ii) recycled content policies;

4 (iii) sustainable harvest policies;

5 (iv) renewable energy policies;

6 (v) human rights; or

7 (vi) labor project agreements.

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

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

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

22 (C) require that any provisions relating to the patenting of
23 traditional knowledge be consistent with the Convention on
24 Biological Diversity, concluded at Rio de Janeiro June 5,
25 1992; and

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

5 (8) AGRICULTURAL STANDARDS.—If the agreement contains
6 provisions related to agriculture, such provisions shall—

7 (A) ensure adequate and stable market returns for farmers
8 in each country that is a party to the agreement;

9 (B) ensure adequate and affordable supplies of safe food
10 for consumers;

11 (C) protect the right of each country that is a party to the
12 agreement to encourage conservation through the use of best
13 practices with respect to the management and production of
14 crops;

15 (D) ensure fair treatment of farm laborers in each such
16 country;

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

21 (F) protect the right of each such country to establish
22 policies with respect to food and agriculture that require
23 farmers to receive fair remuneration for management and
24 labor that occurs on farms and that allow for inventory
25 management and strategic food and renewable energy
26 reserves, while ensuring that such policies must not aid or
27 abet, or otherwise contribute to, or allow the dumping of
28 agricultural commodities onto world markets at below the
29 cost of production; and

1 (G) preserve any existing United States law relating to
2 antitrust and anticompetitive business practices from being
3 preempted or rendered ineffective by the agreement; and

4 (H) not contain provisions that conflict with agricultural
5 policy established in United States law.

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

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

11 (B) not decrease the effectiveness of domestic and
12 international prohibitions on unfair trade, especially
13 prohibitions on dumping and subsidies, and domestic and
14 international safeguard provisions;

15 (C) establish mechanisms to address and remedy market
16 distortions that lead to dumping and subsidization, including
17 overcapacity, cartelization, and market-access barriers
18 through strong trade agreement terms disciplining subsidies;

19 (D) allow the United States to maintain adequate
20 safeguards to ensure that surges of imported goods do not
21 result in economic burdens on workers, firms, or farmers in
22 the United States, including providing that such safeguards
23 go into effect automatically based on certain criteria; and

24 (E) establish mechanisms among the parties to the
25 agreement to examine the trade consequences of significant
26 currency movements and to scrutinize whether a party's

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

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

7 (10) RULES OF ORIGIN PROVISIONS.—If the agreement contains
8 provisions related to rules of origin, such provisions shall—

9 (A) ensure, to the fullest extent practicable, that goods
10 receiving preferential treatment under the agreement are
11 produced using inputs from a country that is a party to the
12 agreement; and

13 (B) ensure the effective enforcement of such provisions.

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

17 (A) incorporate the basic due process guarantees protected
18 by the Constitution of the United States, including access to
19 documents, open hearings, and conflict of interest rules for
20 judges;

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

25 (C) require an expedited process for all dispute settlement

1 panels and processes related to violations of an agreement's
2 labor and environmental obligations, recognizing that
3 environmental and labor rights and the health, safety, and
4 freedom of people and possibly irreversible damage to the
5 physical environment are fundamentally different than
6 property rights and thus require establishment of more
7 expeditious timelines, together with the necessary resources
8 for oversight and enforcement; and

9 (D) provide that dispute resolution proceedings are open to
10 the public and provide timely public access to information
11 regarding enforcement, disputes, and ongoing negotiations
12 related to disputes.

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

15 (A) be designed to raise standards in developing countries
16 by providing assistance that ensures respect for diversity of
17 development paths;

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

21 (C) provide that technical assistance shall not be a
22 substitute for nor supplant economic assistance; and

23 (D) not promote the exportation of goods produced with
24 the exploitation of labor or unsustainable environmental
25 practises.

26 (13) EXCEPTIONS FOR NATIONAL SECURITY AND OTHER

1 REASONS.—Each agreement shall—

2 (A) include an essential security exception that permits a
3 country that is a party to the agreement to apply measures
4 that the country considers necessary for the maintenance or
5 restoration of international peace or security, or the
6 protection of its own essential security interests, including
7 regarding infrastructure, services, manufacturing, and other
8 sectors;

9 (B) explicitly state that if a country invokes the essential
10 security exception in a dispute settlement proceeding, the
11 dispute settlement body hearing the matter shall find that the
12 exception applies;

13 (C) include a provision that gives priority to the
14 implementation of bilateral or multilateral agreements
15 relating to public health, human and labor rights, the
16 environment, or other public interest goals in the event of any
17 inconsistency between a trade agreement and such bilateral
18 or multilateral agreement; and

19 (D) include in its list of general exceptions the following
20 language: “Notwithstanding any other provision of this
21 agreement, a provision of law that is nondiscriminatory on its
22 face and relates to domestic health, consumer safety, the
23 environment, labor rights, worker health and safety,
24 economic equity, consumer access, the provision of goods or
25 services, or investment, shall not be subject to challenge
26 under the dispute resolution mechanism established under
27 this agreement, unless the primary purpose of the law is to

1 discriminate with respect to market access.”

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

7 (15) TAXATION— Each agreement shall—

8 (A) provide for tax equity for U.S. producers and U.S.
9 exporters, including by forbidding taxation at the border on
10 U.S. exports in excess of taxes applied at the border by the
11 United States to imports from parties and/or banning the
12 rebate of taxes on exports in amounts in excess of any taxes
13 rebated by the United States.

14 **SEC. 5. RENEGOTIATION OF EXISTING TRADE**
15 **AGREEMENTS.**

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

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

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

24 **SEC. 6. ESTABLISHMENT OF CONGRESSIONAL TRADE**
25 **AGREEMENT REVIEW COMMITTEE.**

1 (a) Establishment.—There is established a Congressional Trade
2 Agreement Review Committee.

3 (b) Functions.—The Committee—

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

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

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

12 (c) Appointment and Membership.—The Committee shall be
13 composed of the chair and ranking members of the following:

14 (1) The Committee on Agriculture of the House of
15 Representatives.

16 (2) The Committee on Education and Labor of the House of
17 Representatives.

18 (3) The Committee on Energy and Commerce of the House of
19 Representatives.

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

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

24 (6) The Committee on the Judiciary of the House of
25 Representatives.

1 (7) The Committee on Natural Resources of the House of
2 Representatives.

3 (8) The Committee on Small Business of the House of
4 Representatives.

5 (9) The Committee on Transportation and Infrastructure of the
6 House of Representatives.

7 (10) The Committee on Ways and Means of the House of
8 Representatives.

9 (11) The Committee on Agriculture, Nutrition, and Forestry of
10 the Senate.

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

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

15 (14) The Committee on Energy and Natural Resources of the
16 Senate.

17 (15) The Committee on Environment and Public Works of the
18 Senate.

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

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

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

23 (19) The Committee on the Judiciary of the Senate.

24 (20) The Committee on Small Business and Entrepreneurship

1 of the Senate.

2 **SEC. 7. SENSE OF CONGRESS ON REQUIREMENTS FOR**
3 **TRADE AGREEMENTS.**

4 (a) In General.—It is the sense of Congress that the requirements
5 described in subsection (b) shall apply to any trade agreement that—

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

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

10 (b) Requirements With Respect to Trade Agreements.—The
11 requirements described in this subsection are the following:

12 (1) The trade agreement shall result in the creation of jobs in
13 the United States, increased wages, and a reduction of the trade
14 deficit by providing fair and transparent market access while
15 preserving the ability of the United States—

16 (A) to enforce domestic trade laws; and

17 (B) to address the negative impacts of currency
18 manipulation, financial instability, and high debt burdens on
19 United States trade relationships.

20 (2) The trade agreement shall preserve the ability of the United
21 States and the government of any country that is a party to the
22 agreement to foster and secure economic, social, and human
23 development so that the people of the United States can benefit
24 from—

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

1 and

2 (B) economic development policies designed to increase
3 job availability and stable industries, revitalize the
4 manufacturing base in the United States, and bring economic
5 opportunity to communities hard hit by past trade policies.

6 (3) The trade agreement shall create a predictable structure for
7 international trade without providing foreign investors with
8 overreaching privileges and rights of private enforcement that
9 distort investment decisions.

10 (4) The trade agreement shall enable Federal, State and Local
11 governments—

12 (A) to regulate in the public interest;

13 (B) to develop procurement policies that create and
14 maintain good jobs;

15 (C) to promote economic opportunity and development and
16 achieve other legitimate social goals; and

17 (D) to provide high-quality public services and regulate all
18 essential services to protect the public interest.

19 (5) The trade agreement shall ensure that products imported
20 into the United States, including food, meet U.S. safety standards,
21 are thoroughly inspected, and accurately labeled.

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

25 (7) The trade agreement shall specifically provide that the trade

1 agreement does not allow for the preemption of the federalist
2 system of the United States with respect to issues of State and
3 local policy that are not related to international trade.

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

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

13 (10) The trade agreement shall explicitly incorporate in the core
14 text of the agreement a requirement to adopt into domestic law
15 and effectively enforce core labor standards.

16 (11) The trade agreement shall—

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

22 (B) incorporate requirements to adopt into domestic law
23 and enforce the major multilateral environmental agreements,
24 which comprise the global consensus on basic environmental
25 protection; and

26 (C) prohibit the importation of any goods that are illegally

1 harvested natural resources or products, or that are otherwise
2 environmentally sensitive into the United States, and
3 consider specific measures to enable customs agencies in all
4 countries that are parties to the agreement, to meaningfully
5 enforce those prohibitions, based in the principle that open
6 trade does not mean illegal trade.

7 (12) The trade agreement shall—

8 (A) provide that failures to meet the labor and
9 environmental standards required by the agreement are
10 subject to dispute resolution and enforcement mechanisms
11 and penalties that are at least as effective as the mechanisms
12 and penalties that apply to the commercial provisions of the
13 agreement; and

14 (B) ensure the availability of the resources necessary for
15 oversight and enforcement of the labor, environmental, and
16 intellectual property standards in the agreement.

17 (13) The trade agreement shall establish that, if the regulatory
18 standards of the countries that are parties to the agreement need to
19 be harmonized to facilitate trade, the harmonization shall be
20 based on standards that are no less stringent than the standards of
21 the United States.

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

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

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

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

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

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

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

12 (3) requirements for consultation with Congress during trade
13 negotiations that require more frequent consultations than
14 required by the Bipartisan Trade Promotion Authority Act of
15 2002 (19 U.S.C. 3801 et seq.), including a process for
16 consultation with any committee of Congress with jurisdiction
17 over any area covered by the negotiations;

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

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

24 (6) a process—

25 (A) by which a State may give informed consent to be

1 bound by nontariff provisions in a trade agreement that relate
2 to investment, the service sector, and procurement; and

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

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