

Trade Reform, Accountability, Development and Employment Act of 2009 – TRADE Act

Comprehensive Reform We Can Believe In!

The Fight for Fair Trade is on: here's *the* tool for comprehensive reform of WTO & NAFTA

The TRADE Act is trade reform you can believe in! Two of Congress' leading fair-trade champions – 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 legislation that offers a progressive path to a new trade and globalization policy. This initiative sets forth **what we are for** – what a good trade agreement must and must not include. Plus, it shuts down the bogus claim that we are anti-trade or have no alternative vision because we oppose the North American Free Trade Agreement (NAFTA) & World Trade Organization (WTO) model that benefits the largest multinational corporations at the expense of workers, family farmers, food & product safety, the environment and human rights in the U.S. and around the world.

Passing the TRADE Act would move America to a new trade and globalization policy

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** – the undemocratic negotiating system that got us into WTO and NAFTA – 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 to discussing **a new trade and globalization model**. If passed, it will move us past the repeated defensive fights against bad agreements. It also helps realize the campaign promises made by President Obama and the 72 fair-trade congress members newly elected in 2006 and 2008 that replaced advocates of the failed status-quo policies. 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.

Here is what the TRADE Act includes:

Review: Requires the Government Accountability Office (GAO) to conduct a comprehensive review of existing major trade pacts by June 10, 2010, including economic outcomes in the U.S. and abroad and various security, human rights, social and environmental indicators. The GAO must also report on how the current pacts measure up against the bill's listing of what must and must not be included in future U.S. trade agreements.

What Must and Must Not Be in All Agreements: Sets forth the food and product safety, environmental and labor standards; federalism protections; agriculture rules; national security exceptions; and currency anti-manipulation and trade remedy rules that must be included in all American trade pacts. And, because WTO-NAFTA-model trade agreements extend far beyond traditional trade matters, this section also lists what *cannot* be included in future American trade agreements, including service sector privatization and deregulation requirements; bans on Buy American and anti-sweat shop or environmental procurement policies; new rights and privileges for foreign investors to promote offshoring and expose domestic health and environmental laws to attacks in foreign tribunals; and special protections for Big Pharma to limit affordable access of generic medicines. (These outrages are in WTO, NAFTA and similar pacts.)

The Globalization Activists' Answer to What We Are FOR:

Trade Reform, Accountability, Development and Employment Act of 2009 – TRADE Act

Renegotiation: Requires the president to submit renegotiation plans to Congress to remedy the gaps identified by the GAO between our current pacts and the criteria for good agreements listed in the bill *prior* to negotiating new agreements and prior to congressional consideration of pending agreements.

Expanding Congressional Oversight: Establishes a committee of the chairs and ranking members of all congressional committees whose jurisdiction is implicated by today's expansive "trade" pacts to review the renegotiation plan.

Replacing Fast Track: Lays out criteria for a new mechanism to replace the anti-democratic 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 pacts; and the requirements that Congress must certify that the objectives were met, and then vote on an agreement *before* it can be signed.

What you can do to help pass the TRADE Act

1. **Your senators and representatives work for YOU:** *Power concedes nothing without a demand. It never has and it never will.* The corporations who cooked up WTO and NAFTA are pushing your members of Congress to do the wrong thing on trade and globalization – *more of the same*. U.S. trade policy is made by Congress. To force change, we must obtain the support from a majority in Congress. With polls showing the public opposes more of the same, **every activist must speak for that majority by explicitly demanding that both of your senators and your representative cosponsor the TRADE Act.**
2. **Call your senators and representatives today:** You can connect by calling 202-225-3121, the Capitol switchboard. Not sure who your representative is? Just give your zip code to the operator. You will be connected. From the representative's office, ask to be transferred to your senators. When you are connected to the representative's and senators' offices, ask for the "trade LA." This is the staffer who handles trade. Tell them you want your representative or senators to cosponsor the TRADE Act. Ask for a formal letter or email in response – as a constituent you'll get one.
3. **To connect to local activists and more, go to Public Citizen's website at:** www.citizen.org/trade/tradeact. You'll find talking points and more. Contact James Ploeser at jploeser@citizen.org or 202-454-5111 to connect with local Citizens Trade Campaign staff and activists who arrange local meetings with congress people, protests and more.

Support for the 2008 TRADE Act:

- AFL-CIO
- Change to Win
- Communications Workers of America (CWA)
- American Federation of State, County and Municipal Workers (AFSCME)
- International Association of Machinists and Aerospace Workers (IAM)
- International Brotherhood of Boilermakers
- International Brotherhood of Electrical Workers (IBEW)
- International Brotherhood of Teamsters (IBT)
- International Union of Painters and Allied Trades
- United Steelworkers (USW)
- Sierra Club
- National Farmers Union
- National Family Farm Coalition
- UNITE-HERE
- United Methodist Church General Board of Church and Society
- Friends of the Earth
- Public Citizen
- Citizens Trade Campaign
- Institute for Agriculture and Trade Policy
- Americans for Democratic Action

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(Original Signature of Member)

1
2
3
4 111TH CONGRESS
5 1st SESSION
6

H.R._____

7 To require a review of existing trade agreements and renegotiation of
8 existing trade agreements based on the review, to set terms for future
9 trade agreements, to express the sense of the House of Representatives
10 that the role of Congress in trade policymaking should be strengthened,
11 and for other purposes.
12

13 **IN THE HOUSE OF REPRESENTATIVES**

14 Mr. MICHAUD (for himself and _____) introduced a the following bill,
15 which was referred to the Committee on _____.

16
17 **A BILL**

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

23 *Be it enacted by the Senate and House of Representatives of the*
24 *United States of America in Congress assembled,*

25 **SECTION 1. SHORT TITLE.**

26 This Act may be cited as the “Trade Reform, Accountability,
27 Development, and Employment Act of 2009” or the “TRADE Act of
28 2009”.

29 **SEC. 2. DEFINITIONS.**

30 In this Act:

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

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

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

7 (C) effective abolition of child labor; and

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

10 (2) FUNDAMENTAL HUMAN RIGHTS.—The term “fundamental
11 human rights” means the rights enumerated in the United Nations
12 Universal Declaration of Human Rights and the criteria set forth
13 in sections 116(d) and 502B(b) of the Foreign Assistance Act of
14 1961, as amended, and section 504 of the Trade Act of 1974, as
15 amended.

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

21 (4) TRADE AGREEMENTS.—

22 (A) IN GENERAL.—The term “trade agreement” includes
23 the North American Free Trade Agreement (NAFTA) and
24 the Dominican Republic-Central America- U.S. Free Trade
25 Agreement (CAFTA) and the U.S.-Jordan Free Trade
26 Agreement.

1 (B) URUGUAY ROUND AGREEMENTS.—The term “trade
2 agreement” includes—

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

5 (ii) the WTO Agreement described in section 2(9) of
6 the Uruguay Round Agreements Act (19 U.S.C.
7 3501(9)); and

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

10 (iv) the post Uruguay Round sectoral agreements on
11 information technology, telecommunications and
12 financial services; and

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

15 (5) MAJOR U.S. TRADE PARTNERS. —The term “major
16 U.S. trade partners” includes Belgium, Brazil, China, France,
17 Germany, Hong Kong, India, Ireland, Italy, Japan, South
18 Korea, Malaysia, Netherlands, Taiwan, and the United
19 Kingdom.

20 **SEC. 3. REVIEW AND REPORT ON EXISTING TRADE**
21 **AGREEMENTS.**

22 (a) Review and Report.

23 (1) IN GENERAL.—Not later than [DATE] and every 2 years
24 thereafter the Comptroller General of the United States shall
25 conduct a review of all trade agreements described in section 2(4)

1 and submit to the Congressional Trade Agreement Review
2 Committee established under section 6 a report that includes the
3 information described under subsections (b) and (c) and the
4 recommendations required under subsection [(d).] The purpose of
5 the review is to evaluate the economic, environmental, national
6 security, health, safety and other effects of existing U.S. trade
7 agreements;

8 (2) COOPERATION OF AGENCIES.—The Department of State, the
9 Department of Agriculture, the Department of Commerce, the
10 Department of Labor, the Department of the Treasury, and other
11 executive departments and agencies shall cooperate with the
12 Comptroller General and the Government Accountability Office
13 in providing access United States Government officials and
14 documents to facilitate preparation of the report;

15 (3) INFLATION-CONTROLLED DOLLARS.—Data
16 expressed in terms of U.S. dollars should be in inflation adjusted
17 terms unless otherwise indicated.

18 (b) Information With Respect to Trade Agreements.—The report
19 required by subsection (a) shall, with respect to each trade agreement
20 described in section 2(4), to the extent practical, include the following
21 information covering the period between the date on which the
22 agreement entered into force with respect to the United States and the
23 date on which the Comptroller General completes the review:

24 (1) An analysis of indicators during the period the relevant
25 agreement was in effect of the economic impact of each trade
26 agreement listed in section 2(4), including—

1 (A) the employment effects of the agreement on job gains
2 and losses in the United States delineated by economic
3 sector, year and State taking note of specific firm-, industry-
4 or regional-cases of substantial trade-related employment
5 losses or gains including a list of the top ten sectors of U.S.
6 employment gains and losses. In addition to utilizing
7 existing government data, the GAO shall develop and utilize
8 a labor requirements model derived from detailed input-
9 output tables to estimate the number of jobs supported or
10 displaced by shifts in the level and rate of change of U.S.
11 net exports and investment flows; and

12 (B) the effects of the agreement on changes in relative and
13 absolute wage levels and income distribution in inflation-
14 controlled U.S. dollars on a year-to-year basis by decile in
15 the United States and hours worked by sector, State and
16 year. the United States and hours worked by sector, State
17 and year. In addition to utilizing existing government data,
18 the GAO shall develop and utilize factor content analyses,
19 product price regressions, computable general equilibrium
20 models and other applicable methods to isolate the impact
21 of trade and the specific trade agreement (and its associated
22 investment flows) on changes in relative and absolute wages
23 and income distribution by education, skill level and trade-
24 sensitivity of various sectors, controlling for appropriate
25 indicators such as region, race, and gender; and

26 (C) the dollar value of domestic exports of the United States
27 and imports for consumption into the United States

1 delineated by SITC-5, SIC-4, NAIC-6 and HTS-10 and year
2 and trade-partner country, including listing those goods for
3 which there has been a change in 10 percent or more in
4 bilateral trade flow;) and

5 (D) the share of global production, productive capacity,
6 investment, exports and employment, and other indicators of
7 the competitive position (such as productivity gains and
8 patents registered) of industries in the United States
9 significantly affected by trade and the specific agreement,
10 taking note of major production and employment offshoring
11 trends and changes in sourcing patterns before and after the
12 implementation of each trade agreement; and

13 (2) A trend analysis of relative and absolute wage levels in
14 inflation-controlled U.S. dollars on a year-to-year basis in—

15 (A) each country with which the United States has a trade
16 agreement described in section 2(4)(A);

17 (B) each country listed in section 2(5);

18 (C) each country with which the United States has
19 considered establishing a free trade agreement, including
20 South Africa, Vietnam, Malaysia and Thailand;

21 (D) Cambodia

22 (3) The effect on agriculture and food-related outcomes
23 including—

24 (A) the trend of prices and production and export volumes
25 in the United States for agricultural commodities and food
26 products that are imported in significant volumes into the

1 United States from a country that is a party to an agreement
2 described in section 2(4) on a year-by-year basis. For the
3 purposes of this section, “significant volume” means that
4 imports constitute 10 percent of domestic consumption at the
5 HTS-4 level;)

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

8 (C) the number of farms operating in the United States
9 detailed by farm typology and sales level and the number of
10 acres under production by crop for agricultural commodities
11 that are exported from the United States to a country that is a
12 party to such an agreement on a year-by-year basis.

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

18 (4) An analysis of the progress in implementing trade
19 agreement commitments and the record of

20 compliance with the terms of each agreement listed in section
21 2(4) with respect to the countries who are parties to the
22 agreements listed in section 2(4)(a) and the countries listed in
23 section 2(5) and a. description of any outstanding disputes
24 between the United States and any country that is a party to an
25 agreement listed in section 2(4), including a description of laws,
26 regulations, or policies of the United States or any State that any

1 country that is a party to such an agreement has challenged, or
2 threatened to challenge, under such agreement.

3 (5) An analysis of the adequacy of the United States to ensure
4 that any country with which the United States has a trade
5 agreement described in section 2(3) complies with United States
6 laws and regulations, including—

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

8 (B) making timely payment of duties owed on goods
9 imported into the United States and the amount of duties paid
10 delineated by country;

11 (C) meeting safety and inspection requirements with
12 respect to food and other products imported into the United
13 States; and

14 (D) complying with prohibitions on the transshipment of
15 goods that are ultimately imported into the United States; and

16 (E) enforcing the trade agreement of the United States,
17 including preventing dumping and circumvention.

18 (6) A analysis of any privatization of public sector services in
19 the United States or in any country that is a party to the an
20 agreement listed in section 2(4), if the service involved is covered
21 by the investment, financial services, or services provisions of the
22 agreement, including any effect such privatization has on the
23 access of consumers to essential services, such as health care,
24 electricity, gas, water, telephone service, or other utilities

25 (7) An assessment of the impact of the intellectual property
26 provisions of the trade agreements listed in section 2(4) on the

1 retail price of pharmaceuticals in any country that is a party to the
2 agreements and the effect, if any, that changes in the price of
3 pharmaceuticals have had on access to medicines.

4 (8) An analysis of the impact of government procurement rules
5 in the agreements listed in section 2(4) on the procurement of
6 goods or services by U.S. Federal or State government agencies,
7 including annual information on the value of goods and services
8 procured delineated by federal or state government and by agency
9 and by good or service procured and country from which the
10 good or service originated;

11 (9) An assessment of the impact of significant currency
12 movements, currency misalignment or manipulation on the
13 bilateral trade balance between the United States and countries
14 listed in section 2(5) and countries who are parties to agreements
15 listed n section 2(4)(a)..

16 (c) Information on Countries That Are Parties to Trade
17 Agreements—With respect to each country with which the United
18 States has a trade agreement in effect, the report required under
19 subsection (a) shall include information regarding whether that
20 country—

21 (1) has a democratic form of government;

22 (2) respects core labor rights, as defined by the Committee of
23 Experts on the Application of Conventions and
24 Recommendations and the Conference Committee on the
25 Application of Standards of the International Labour
26 Organization;

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

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

7 (5) is on a list described in subparagraph (B) or (C) of section
8 110(b)(1) of the Trafficking Victims Protection Act of 2000 (22
9 U.S.C. 7107(b)(1)) (commonly known as tier 2 or tier 3 of the
10 Trafficking in Persons List of the Department of State);

11 (6) has taken effective measures to combat and prevent public
12 and private corruption, including measures with respect to tax
13 evasion and money laundering and has ratified the OECD anti-
14 bribery convention;

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

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

21 (9) adequately protects intellectual property rights;

22 (10) provides for governmental transparency, due process of
23 law, and respect for international agreements; and

24 (11) poses potential concerns to the national security of the
25 United States, including an assessment of transfer of technology,
26 production, and services from one country to another.

1 (f) Public Comment- In preparing each report required under
2 subsection (a), the Comptroller General shall--

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

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

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

9 **SEC. 4. INCLUSION OF CERTAIN PROVISIONS IN TRADE**
10 **AGREEMENTS.**

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

18

19 (b) Requirements.—Each trade agreement negotiated between the
20 United States and another country shall meet the following
21 requirements:

22 1) LABOR STANDARDS- The labor provisions shall--

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

24 (B) require each country that is party to the agreement to adopt
25 and maintain as part of its domestic law and regulations

1 (including in any designated zone in that country) the core labor
2 rights and effectively enforce laws related to those rights and
3 acceptable conditions of work with respect to minimum wages,
4 hours of work, and occupational safety and health;

5 (C) prohibit a country that is a party to the agreement from
6 waiving or otherwise derogating from its laws and regulations
7 relating to the core labor standards and acceptable conditions of
8 work with respect to minimum wages, hours of work, and
9 occupational safety and health;

10 (D) provide that failures to meet the labor standards required by
11 the agreement shall be subject to effective dispute resolution and
12 enforcement mechanisms and penalties that are included in the
13 core text of the agreement and that are at least as effective as the
14 mechanisms and penalties that apply to the commercial
15 provisions of the agreement;

16 (E) strengthen the capacity of each country that is a party to the
17 agreement to promote and enforce core labor standards;

18 (F) provide for the establishment of a commission comprised of
19 individuals with international and comparative labor rights
20 expertise including representatives of independent labor unions of
21 countries who are partners to the agreement, representatives of
22 exporting businesses of countries who are parties to the
23 agreement, and independent academic researchers that shall
24 receive, investigate, review, and participate in the adjudication of
25 any complaint filed under the labor provisions of the trade
26 agreement, and vest the commission with the authority to

1 establish objective indicators to determine compliance with the
2 obligations set forth in subparagraphs (B), (C) and (D); and.

3 (G) require any country that is a party to the agreement to
4 cooperate fully with investigations by the commission required
5 under subparagraph (F).

6 2) HUMAN RIGHTS STANDARDS.—The human rights
7 provisions shall—

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

9 (B) require each country that is a party to the agreement
10 recognize the United Nations Universal Declaration of Human
11 Rights as a common standard of achievement for all peoples and
12 all nations;

13 (C) require each country that is party to the agreement to adopt
14 into and maintain as part of its domestic law and regulations
15 (including in any designated zone in that country) and enforce
16 effectively fundamental human rights;

17 (D) prohibit a country that is a party to the agreement from
18 waiving or otherwise derogating from its laws and regulations
19 relating to fundamental human rights;

20 (E) provide that failures to meet the fundamental human rights
21 required by the agreement shall be subject to effective dispute
22 resolution and enforcement mechanisms and penalties that are
23 included in the core text of the agreement and that are at least as
24 effective as the mechanisms and penalties that apply to the
25 commercial provisions of the agreement;

1 (F) strengthen the capacity of each country that is a party to the
2 agreement to promote and enforce fundamental human rights;

3 (G) provide for the establishment of a commission composed of
4 representatives specializing in international and comparative
5 human rights including representatives of independent human
6 rights organizations of countries who are parties to the agreement
7 and academic researchers that shall receive, investigate, review,
8 and participate in the adjudication of any complaint filed under
9 the human rights provisions of the trade agreement, and vest the
10 commission with the authority to establish objective indicators to
11 determine compliance with the obligations set forth in
12 subparagraphs (B), (C) (D) and (E); and.

13 (H) require any country that is a party to the agreement to
14 cooperate fully with investigations by the commission required
15 under subparagraph (G).

16 (3) ENVIRONMENTAL AND PUBLIC SAFETY STANDARDS.—The
17 environmental provisions shall—

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

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

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

1 obligations under the agreement; and

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

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

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

17 (4) FOOD AND PRODUCT HEALTH AND SAFETY STANDARDS.—If
18 the agreement contains health and safety standards for food and
19 other products, the agreement shall—

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

26 (B) establish that nonfood products may be imported into

1 the United States from a country that is a party to the
2 agreement only if such products meet or exceed United
3 States standards with respect to health and safety,
4 inspections, packaging, and labeling;

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

9 (D) authorize the Commissioner of the Food and Drug
10 Administration and the Consumer Product Safety
11 Commission to assess the regulatory system of each country
12 that is a party to the agreement to determine whether the
13 system provides the same or better protection of health and
14 safety for food and other products as provided under the
15 regulatory system of the United States and authorize other
16 federal agencies to assess the regulatory system of each
17 country that is party to an agreement to determine whether the
18 system provides the same or better quality controls on
19 manufactured goods as provided under the regulatory system
20 of the United States;

21 (E) if the Commissioner or the Commission determines
22 that the regulatory system of such a country does not provide
23 the same or better protection of health and safety for food
24 and other products as provided under the regulatory system
25 of the United States, or another agency determines that the
26 regulatory system of such a country does not provide the
27 same or better quality controls on manufactured goods as

1 provided under the regulatory system of the United States,
2 prohibit the importation into the United States of food and
3 other products from that country;

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

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

13 (5) SERVICES PROVISIONS.—If the agreement contains
14 provisions related to the provision of services, such provisions
15 shall—

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

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

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

26 (C) establish a general exception to market access

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

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

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

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

24 (G) not subject local governments to the service sector
25 obligations under the agreement;

26 (H) not include provisions with respect to immigration or

1 the movement of natural persons; and

2 (I) not limit any nondiscriminatory national, regional,
3 or local government program to establish
4 reimbursement rates or otherwise control the costs of
5 pharmaceuticals or medical devices.

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

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

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

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

16 (D) ensure that foreign investors operating in the United
17 States are not afforded greater rights than those afforded to
18 domestic investors by the Constitution and laws of the United
19 States;

20 (E) provide for government-to-government dispute
21 resolution relating to expropriation only for those disputes
22 relating to a government action that destroys all value of the
23 real property of a foreign investor permanently, but not
24 government actions that do not merely diminish the value of
25 property;

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

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

7 (H) define the standard of minimum treatment to provide
8 no greater legal rights than United States citizens possess
9 under the due process clause of section 1 of the 14th
10 amendment to the Constitution of the United States.

11 (7) PROCUREMENT STANDARDS.—If the agreement contains
12 government procurement provisions, such provisions shall—

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

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

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

25 (i) prevailing wage policies;

26 (ii) recycled content policies;

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

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

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

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

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

23 (D) ensure that the access of the public to essential
24 medicines and to technologies critical to preventing climate
25 change is not obstructed by any provision of the agreement
26 relating to the protection of intellectual property rights.

1 (9) AGRICULTURAL STANDARDS.—If the agreement contains
2 provisions related to agriculture, such provisions shall—

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

5 (B) ensure adequate and affordable supplies of safe food
6 for consumers;

7 (C) protect the right of each country that is a party to the
8 agreement to encourage conservation through the use of best
9 practices with respect to the management and production of
10 crops;

11 (D) ensure fair treatment of farm laborers in each such
12 country;

13 (E) protect the right of each country that is a party to the
14 agreement to prevent dumping of agricultural commodities at
15 below the cost of production through border regulations or
16 other mechanisms and policies; (F) protect the right of each
17 such country to establish policies with respect to food and
18 agriculture that require farmers to receive fair remuneration
19 for management and labor that occurs on farms and that
20 allow for inventory management and strategic food and
21 renewable energy reserves, while ensuring that such policies
22 must not aid or abet, or otherwise contribute to, or allow the
23 dumping of agricultural commodities onto world markets at
24 below the cost of production; and

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

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

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

5 (A) preserve fully the ability of the United States to
6 enforce its trade laws, including antidumping and
7 countervailing duty laws and safeguard laws, and the right to
8 calculate 100 percent of the dumping **in all antidumping**
9 **proceedings** and the right to disburse domestically
10 antidumping and countervailing duties as the United States
11 so determines;

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

16 (C) establish mechanisms to address and remedy market
17 distortions that lead to dumping and subsidization, including
18 overcapacity, cartelization, and market-access barriers
19 through the strong disciplining of subsidies, including
20 applying the countervailing duty law when exporters receive
21 tax rebates for indirect taxes upon export;

22 (D) allow the United States to maintain adequate
23 safeguards for a minimum of two years to ensure that surges
24 of imported goods do not result in economic burdens on
25 workers, firms, or farmers in the United States, including

1 providing that such safeguards go into effect automatically
2 based on certain criteria;

3 (E) establish mechanisms among the parties to the
4 agreement to examine the trade consequences of significant
5 currency movements and to scrutinize whether a party's
6 currency is misaligned to promote a competitive advantage in
7 international trade; and

8 (F) if the currency of a country that is party to the
9 agreement is deliberately misaligned, establish safeguard
10 remedies that apply automatically for a minimum period of
11 two years to offset substantial and sustained currency
12 movements and also allow alternatively for the application of
13 countervailing duties.

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, human rights and other public
24 law issues include panelists with expertise in such issues; and

25 (C) require an expedited process for all dispute settlement
26 panels and processes related to violations of an agreement's

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

8 (D) provide that dispute resolution proceedings incorporate
9 due process rules, are open to the public and provide timely
10 public access to information regarding enforcement, disputes,
11 and ongoing negotiations related to disputes and that conflict
12 of interest rules apply fully to adjudicators.

13 (E) require that panels reviewing antidumping and
14 countervailing duty proceedings of a party to the agreement
15 shall apply a standard of review that gives deference to the
16 administering authority of the party whose measure is under
17 review

18 12) TECHNICAL ASSISTANCE.—If the agreement contains
19 technical assistance provisions, such provisions shall—

20 (A) be designed to raise standards in developing countries
21 by providing assistance that ensures respect for diversity of
22 development paths;

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

26 (C) provide that technical assistance shall not be a

1 substitute for nor supplant economic assistance and not
2 promote exportation of goods produced with the exploitation
3 of labor or unsustainable environmental practices.

4 (13) EXCEPTIONS FOR NATIONAL SECURITY AND OTHER
5 REASONS.—Each agreement shall—

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

13 (B) explicitly state that if a country invokes the essential
14 security exception in a dispute settlement proceeding, the
15 dispute settlement body hearing the matter shall find that the
16 exception applies;

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

23 (D) include in its list of general exceptions the following
24 language: “Notwithstanding any other provision of this
25 agreement, a provision of law that is nondiscriminatory on its
26 face and relates to domestic health, consumer safety, the

1 environment, labor rights, worker health and safety,
2 economic equity, consumer access, the provision of goods or
3 services, or investment, shall not be subject to challenge
4 under the dispute resolution mechanism established under
5 this agreement, unless the primary purpose of the law is to
6 discriminate with respect to market access.”

7 (14) FEDERALISM.—The agreement may only require a State
8 government to comply with procurement, investment, or services
9 provisions contained in the agreement if the State government has
10 been consulted in full and has given explicit consent to be bound
11 by such provisions.

12 (15) TAXATION— Each agreement shall provide for tax equity
13 for U.S. producers and U.S. exporters, including by forbidding
14 taxation at the border on U.S. exports in excess of taxes applied
15 at the border by the United States to imports from parties and/or
16 banning the rebate of taxes on exports in amounts in excess of
17 any taxes rebated by the United States.

18 **SEC. 5. RENEGOTIATION OF EXISTING TRADE**
19 **AGREEMENTS.**

20 The President shall submit to Congress a plan for renegotiating each
21 trade agreement listed in Section 2(4) that is in effect on the date of
22 the enactment of this Act to bring the trade agreement into compliance
23 with the requirements of section 4(b) not later than 90 days before the
24 earlier of the day on which the President—

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

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

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

4 (a) Establishment.—There is established a Congressional Trade
5 Agreement Review Committee.

6 (b) Functions.—The Committee—

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

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

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

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

17 (1) The Committee on Agriculture of the House of
18 Representatives.

19 (2) The Committee on Education and Labor of the House of
20 Representatives.

21 (3) The Committee on Energy and Commerce of the House of
22 Representatives.

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

25 (5) The Committee on Natural Resources of the House of

1 Representatives.

2 (6) The Committee on Ways and Means of the House of
3 Representatives.

4 (7) The Committee on Agriculture, Nutrition, and Forestry of
5 the Senate.

6 (8) The Committee on Banking, Housing, and Urban Affairs of
7 the Senate.

8 (9) The Committee on Commerce, Science, and Transportation
9 of the Senate.

10 (10) The Committee on Energy and Natural Resources of the
11 Senate.

12 (11) The Committee on Environment and Public Works of the
13 Senate.

14 (12) The Committee on Finance of the Senate.

15 (13) The Committee on Health, Education, Labor, and
16 Pensions of the Senate.

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

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

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

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

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

2 (C) is an appropriate country with which to enter into a
3 trade agreement

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

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

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

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

21 (6) a process—

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

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

1 consented; and

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