

110TH CONGRESS
2D SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

Mr. BROWN (for himself, Mr. DORGAN, Mr. FEINGOLD, and Mr. CASEY) introduced the following bill; which was read twice and 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 Senate that the role of Congress in trade policymaking should be strengthened, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

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

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

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

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

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

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

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

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

23 (3) TRADE AGREEMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (a) REVIEW AND REPORT.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (3) The effect on agriculture, including—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (1) has a democratic form of government;

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

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

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

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

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

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

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

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

14 (9) adequately protects intellectual property
15 rights;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (C) require each such country to imple-
14 ment and enforce fully and effectively, including
15 through domestic law, the country's obligations
16 under multilateral environmental agreements
17 and provide for the enforcement of such obliga-
18 tions under the agreement;

19 (D) prohibit the trade of products that are
20 illegally harvested or extracted and the trade of
21 goods derived from illegally harvested or ex-
22 tracted natural resources, including timber and
23 timber products, fish, wildlife, and associated
24 products, mineral resources, or other environ-
25 mentally sensitive goods;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 tion between the government that took the ac-
2 tion and the foreign investor;

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

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

11 (H) define the term “direct expropriation”
12 as government action that does not merely di-
13 minish the value of property but destroys all
14 value of the property permanently;

15 (I) not provide a dispute resolution system
16 under the agreement for the enforcement of
17 contracts between foreign investors and the gov-
18 ernment of a country that is a party to the
19 agreement relating to natural resources, public
20 works, or other activities under government
21 control; and

22 (J) define the standard of minimum treat-
23 ment to provide no greater legal rights than
24 United States citizens possess under the due

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

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

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

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

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

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

1 (vi) labor project agreements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (d) WAIVERS AND APPEALS.—

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

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

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

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

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

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

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

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

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

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

25 (b) FUNCTIONS.—The Committee—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (6) a process—

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

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

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