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Part 1

BIPARTISAN CONGRESSIONAL TRADE PRIORITIES AND ACCOUNTABILITY ACT OF 2015

MAY 1, 2015.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. RYAN of Wisconsin, from the Committee on Ways and Means, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 1890]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 1890) to establish congressional trade negotiating objectives and enhanced consultation requirements for trade negotiations, to provide for consideration of trade agreements, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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49–006

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bipartisan Congressional Trade Priorities and Accountability Act of 2015".

SEC. 2. TRADE NEGOTIATING OBJECTIVES.

(a) OVERALL TRADE NEGOTIATING OBJECTIVES.—The overall trade negotiating objectives of the United States for agreements subject to the provisions of section 3 are—

(1) to obtain more open, equitable, and reciprocal market access;

(2) to obtain the reduction or elimination of barriers and distortions that are directly related to trade and investment and that decrease market opportunities for United States exports or otherwise distort United States trade;

(3) to further strengthen the system of international trade and investment disciplines and procedures, including dispute settlement;

(4) to foster economic growth, raise living standards, enhance the competitiveness of the United States, promote full employment in the United States, and enhance the global economy;

(5) to ensure that trade and environmental policies are mutually supportive and to seek to protect and preserve the environment and enhance the international means of doing so, while optimizing the use of the world's resources;

(6) to promote respect for worker rights and the rights of children consistent with core labor standards of the ILO (as set out in section 11(7)) and an understanding of the relationship between trade and worker rights;

(7) to seek provisions in trade agreements under which parties to those agreements ensure that they do not weaken or reduce the protections afforded in domestic environmental and labor laws as an encouragement for trade;

(8) to ensure that trade agreements afford small businesses equal access to international markets, equitable trade benefits, and expanded export market opportunities, and provide for the reduction or elimination of trade and investment barriers that disproportionately impact small businesses;

(9) to promote universal ratification and full compliance with ILO Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor;

(10) to ensure that trade agreements reflect and facilitate the increasingly interrelated, multi-sectoral nature of trade and investment activity;

(11) to recognize the growing significance of the Internet as a trading platform in international commerce; and

(12) to take into account other legitimate United States domestic objectives, including, but not limited to, the protection of legitimate health or safety, essential security, and consumer interests and the law and regulations related thereto.

(b) PRINCIPAL TRADE NEGOTIATING OBJECTIVES.—

(1) TRADE IN GOODS.—The principal negotiating objectives of the United States regarding trade in goods are—

(A) to expand competitive market opportunities for exports of goods from the United States and to obtain fairer and more open conditions of trade, including through the utilization of global value chains, by reducing or eliminating tariff and nontariff barriers and policies and practices of foreign governments directly related to trade that decrease market opportunities for United States exports or otherwise distort United States trade; and

(B) to obtain reciprocal tariff and nontariff barrier elimination agreements, including with respect to those tariff categories covered in section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(2) TRADE IN SERVICES.—(A) The principal negotiating objective of the United States regarding trade in services is to expand competitive market opportunities for United States services and to obtain fairer and more open conditions of

trade, including through utilization of global value chains, by reducing or eliminating barriers to international trade in services, such as regulatory and other barriers that deny national treatment and market access or unreasonably restrict the establishment or operations of service suppliers.

(B) Recognizing that expansion of trade in services generates benefits for all sectors of the economy and facilitates trade, the objective described in subparagraph (A) should be pursued through all means, including through a plurilateral agreement with those countries willing and able to undertake high standard services commitments for both existing and new services.

(3) TRADE IN AGRICULTURE.—The principal negotiating objective of the United States with respect to agriculture is to obtain competitive opportunities for United States exports of agricultural commodities in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of trade in bulk, specialty crop, and value added commodities by—

(A) securing more open and equitable market access through robust rules on sanitary and phytosanitary measures that—

(i) encourage the adoption of international standards and require a science-based justification be provided for a sanitary or phytosanitary measure if the measure is more restrictive than the applicable international standard;

(ii) improve regulatory coherence, promote the use of systems-based approaches, and appropriately recognize the equivalence of health and safety protection systems of exporting countries;

(iii) require that measures are transparently developed and implemented, are based on risk assessments that take into account relevant international guidelines and scientific data, and are not more restrictive on trade than necessary to meet the intended purpose; and

(iv) improve import check processes, including testing methodologies and procedures, and certification requirements,

while recognizing that countries may put in place measures to protect human, animal, or plant life or health in a manner consistent with their international obligations, including the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (referred to in section 101(d)(3) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(3)));

(B) reducing or eliminating, by a date certain, tariffs or other charges that decrease market opportunities for United States exports—

(i) giving priority to those products that are subject to significantly higher tariffs or subsidy regimes of major producing countries; and

(ii) providing reasonable adjustment periods for United States import sensitive products, in close consultation with Congress on such products before initiating tariff reduction negotiations;

(C) reducing tariffs to levels that are the same as or lower than those in the United States;

(D) reducing or eliminating subsidies that decrease market opportunities for United States exports or unfairly distort agriculture markets to the detriment of the United States;

(E) allowing the preservation of programs that support family farms and rural communities but do not distort trade;

(F) developing disciplines for domestic support programs, so that production that is in excess of domestic food security needs is sold at world prices;

(G) eliminating government policies that create price depressing surpluses;

(H) eliminating state trading enterprises whenever possible;

(I) developing, strengthening, and clarifying rules to eliminate practices that unfairly decrease United States market access opportunities or distort agricultural markets to the detriment of the United States, and ensuring that such rules are subject to efficient, timely, and effective dispute settlement, including—

(i) unfair or trade distorting activities of state trading enterprises and other administrative mechanisms, with emphasis on requiring price transparency in the operation of state trading enterprises and such other mechanisms in order to end cross subsidization, price discrimination, and price undercutting;

(ii) unjustified trade restrictions or commercial requirements, such as labeling, that affect new technologies, including biotechnology;

(iii) unjustified sanitary or phytosanitary restrictions, including restrictions not based on scientific principles in contravention of obliga-

tions in the Uruguay Round Agreements or bilateral or regional trade agreements;

(iv) other unjustified technical barriers to trade; and

(v) restrictive rules in the administration of tariff rate quotas;

(J) eliminating practices that adversely affect trade in perishable or cyclical products, while improving import relief mechanisms to recognize the unique characteristics of perishable and cyclical agriculture;

(K) ensuring that import relief mechanisms for perishable and cyclical agriculture are as accessible and timely to growers in the United States as those mechanisms that are used by other countries;

(L) taking into account whether a party to the negotiations has failed to adhere to the provisions of already existing trade agreements with the United States or has circumvented obligations under those agreements;

(M) taking into account whether a product is subject to market distortions by reason of a failure of a major producing country to adhere to the provisions of already existing trade agreements with the United States or by the circumvention by that country of its obligations under those agreements;

(N) otherwise ensuring that countries that accede to the World Trade Organization have made meaningful market liberalization commitments in agriculture;

(O) taking into account the impact that agreements covering agriculture to which the United States is a party have on the United States agricultural industry;

(P) maintaining bona fide food assistance programs, market development programs, and export credit programs;

(Q) seeking to secure the broadest market access possible in multilateral, regional, and bilateral negotiations, recognizing the effect that simultaneous sets of negotiations may have on United States import sensitive commodities (including those subject to tariff rate quotas);

(R) seeking to develop an international consensus on the treatment of seasonal or perishable agricultural products in investigations relating to dumping and safeguards and in any other relevant area;

(S) seeking to establish the common base year for calculating the Aggregated Measurement of Support (as defined in the Agreement on Agriculture) as the end of each country's Uruguay Round implementation period, as reported in each country's Uruguay Round market access schedule;

(T) ensuring transparency in the administration of tariff rate quotas through multilateral, plurilateral, and bilateral negotiations; and

(U) eliminating and preventing the undermining of market access for United States products through improper use of a country's system for protecting or recognizing geographical indications, including failing to ensure transparency and procedural fairness and protecting generic terms.

(4) FOREIGN INVESTMENT.—Recognizing that United States law on the whole provides a high level of protection for investment, consistent with or greater than the level required by international law, the principal negotiating objectives of the United States regarding foreign investment are to reduce or eliminate artificial or trade distorting barriers to foreign investment, while ensuring that foreign investors in the United States are not accorded greater substantive rights with respect to investment protections than United States investors in the United States, and to secure for investors important rights comparable to those that would be available under United States legal principles and practice, by—

(A) reducing or eliminating exceptions to the principle of national treatment;

(B) freeing the transfer of funds relating to investments;

(C) reducing or eliminating performance requirements, forced technology transfers, and other unreasonable barriers to the establishment and operation of investments;

(D) seeking to establish standards for expropriation and compensation for expropriation, consistent with United States legal principles and practice;

(E) seeking to establish standards for fair and equitable treatment, consistent with United States legal principles and practice, including the principle of due process;

(F) providing meaningful procedures for resolving investment disputes;

(G) seeking to improve mechanisms used to resolve disputes between an investor and a government through—

(i) mechanisms to eliminate frivolous claims and to deter the filing of frivolous claims;

(ii) procedures to ensure the efficient selection of arbitrators and the expeditious disposition of claims;

(iii) procedures to enhance opportunities for public input into the formulation of government positions; and

(iv) providing for an appellate body or similar mechanism to provide coherence to the interpretations of investment provisions in trade agreements; and

(H) ensuring the fullest measure of transparency in the dispute settlement mechanism, to the extent consistent with the need to protect information that is classified or business confidential, by—

(i) ensuring that all requests for dispute settlement are promptly made public;

(ii) ensuring that—

(I) all proceedings, submissions, findings, and decisions are promptly made public; and

(II) all hearings are open to the public; and

(iii) establishing a mechanism for acceptance of amicus curiae submissions from businesses, unions, and nongovernmental organizations.

(5) INTELLECTUAL PROPERTY.—The principal negotiating objectives of the United States regarding trade-related intellectual property are—

(A) to further promote adequate and effective protection of intellectual property rights, including through—

(i)(I) ensuring accelerated and full implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15)), particularly with respect to meeting enforcement obligations under that agreement; and

(II) ensuring that the provisions of any trade agreement governing intellectual property rights that is entered into by the United States reflect a standard of protection similar to that found in United States law;

(ii) providing strong protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property, including in a manner that facilitates legitimate digital trade;

(iii) preventing or eliminating discrimination with respect to matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights;

(iv) ensuring that standards of protection and enforcement keep pace with technological developments, and in particular ensuring that rightholders have the legal and technological means to control the use of their works through the Internet and other global communication media, and to prevent the unauthorized use of their works;

(v) providing strong enforcement of intellectual property rights, including through accessible, expeditious, and effective civil, administrative, and criminal enforcement mechanisms; and

(vi) preventing or eliminating government involvement in the violation of intellectual property rights, including cyber theft and piracy;

(B) to secure fair, equitable, and nondiscriminatory market access opportunities for United States persons that rely upon intellectual property protection; and

(C) to respect the Declaration on the TRIPS Agreement and Public Health, adopted by the World Trade Organization at the Fourth Ministerial Conference at Doha, Qatar on November 14, 2001, and to ensure that trade agreements foster innovation and promote access to medicines.

(6) DIGITAL TRADE IN GOODS AND SERVICES AND CROSS-BORDER DATA FLOWS.—The principal negotiating objectives of the United States with respect to digital trade in goods and services, as well as cross-border data flows, are—

(A) to ensure that current obligations, rules, disciplines, and commitments under the World Trade Organization and bilateral and regional trade agreements apply to digital trade in goods and services and to cross-border data flows;

(B) to ensure that—

(i) electronically delivered goods and services receive no less favorable treatment under trade rules and commitments than like products delivered in physical form; and

(ii) the classification of such goods and services ensures the most liberal trade treatment possible, fully encompassing both existing and new trade;

(C) to ensure that governments refrain from implementing trade-related measures that impede digital trade in goods and services, restrict cross-border data flows, or require local storage or processing of data;

(D) with respect to subparagraphs (A) through (C), where legitimate policy objectives require domestic regulations that affect digital trade in goods and services or cross-border data flows, to obtain commitments that any such regulations are the least restrictive on trade, nondiscriminatory, and transparent, and promote an open market environment; and

(E) to extend the moratorium of the World Trade Organization on duties on electronic transmissions.

(7) REGULATORY PRACTICES.—The principal negotiating objectives of the United States regarding the use of government regulation or other practices to reduce market access for United States goods, services, and investments are—

(A) to achieve increased transparency and opportunity for the participation of affected parties in the development of regulations;

(B) to require that proposed regulations be based on sound science, cost benefit analysis, risk assessment, or other objective evidence;

(C) to establish consultative mechanisms and seek other commitments, as appropriate, to improve regulatory practices and promote increased regulatory coherence, including through—

(i) transparency in developing guidelines, rules, regulations, and laws for government procurement and other regulatory regimes;

(ii) the elimination of redundancies in testing and certification;

(iii) early consultations on significant regulations;

(iv) the use of impact assessments;

(v) the periodic review of existing regulatory measures; and

(vi) the application of good regulatory practices;

(D) to seek greater openness, transparency, and convergence of standards development processes, and enhance cooperation on standards issues globally;

(E) to promote regulatory compatibility through harmonization, equivalence, or mutual recognition of different regulations and standards and to encourage the use of international and interoperable standards, as appropriate;

(F) to achieve the elimination of government measures such as price controls and reference pricing which deny full market access for United States products;

(G) to ensure that government regulatory reimbursement regimes are transparent, provide procedural fairness, are nondiscriminatory, and provide full market access for United States products; and

(H) to ensure that foreign governments—

(i) demonstrate that the collection of undisclosed proprietary information is limited to that necessary to satisfy a legitimate and justifiable regulatory interest; and

(ii) protect such information against disclosure, except in exceptional circumstances to protect the public, or where such information is effectively protected against unfair competition.

(8) STATE-OWNED AND STATE-CONTROLLED ENTERPRISES.—The principal negotiating objective of the United States regarding competition by state-owned and state-controlled enterprises is to seek commitments that—

(A) eliminate or prevent trade distortions and unfair competition favoring state-owned and state-controlled enterprises to the extent of their engagement in commercial activity, and

(B) ensure that such engagement is based solely on commercial considerations,

in particular through disciplines that eliminate or prevent discrimination and market-distorting subsidies and that promote transparency.

(9) LOCALIZATION BARRIERS TO TRADE.—The principal negotiating objective of the United States with respect to localization barriers is to eliminate and prevent measures that require United States producers and service providers to locate facilities, intellectual property, or other assets in a country as a market access or investment condition, including indigenous innovation measures.

(10) LABOR AND THE ENVIRONMENT.—The principal negotiating objectives of the United States with respect to labor and the environment are—

(A) to ensure that a party to a trade agreement with the United States—

(i) adopts and maintains measures implementing internationally recognized core labor standards (as defined in section 11(17)) and its obligations under common multilateral environmental agreements (as defined in section 11(6)),

(ii) does not waive or otherwise derogate from, or offer to waive or otherwise derogate from—

(I) its statutes or regulations implementing internationally recognized core labor standards (as defined in section 11(17)), in a manner affecting trade or investment between the United States and that party, where the waiver or derogation would be inconsistent with one or more such standards, or

(II) its environmental laws in a manner that weakens or reduces the protections afforded in those laws and in a manner affecting trade or investment between the United States and that party, except as provided in its law and provided not inconsistent with its obligations under common multilateral environmental agreements (as defined in section 11(6)) or other provisions of the trade agreement specifically agreed upon, and

(iii) does not fail to effectively enforce its environmental or labor laws, through a sustained or recurring course of action or inaction,

in a manner affecting trade or investment between the United States and that party after entry into force of a trade agreement between those countries;

(B) to recognize that—

(i) with respect to environment, parties to a trade agreement retain the right to exercise prosecutorial discretion and to make decisions regarding the allocation of enforcement resources with respect to other environmental laws determined to have higher priorities, and a party is effectively enforcing its laws if a course of action or inaction reflects a reasonable, bona fide exercise of such discretion, or results from a reasonable, bona fide decision regarding the allocation of resources; and

(ii) with respect to labor, decisions regarding the distribution of enforcement resources are not a reason for not complying with a party's labor obligations; a party to a trade agreement retains the right to reasonable exercise of discretion and to make bona fide decisions regarding the allocation of resources between labor enforcement activities among core labor standards, provided the exercise of such discretion and such decisions are not inconsistent with its obligations;

(C) to strengthen the capacity of United States trading partners to promote respect for core labor standards (as defined in section 11(7));

(D) to strengthen the capacity of United States trading partners to protect the environment through the promotion of sustainable development;

(E) to reduce or eliminate government practices or policies that unduly threaten sustainable development;

(F) to seek market access, through the elimination of tariffs and nontariff barriers, for United States environmental technologies, goods, and services;

(G) to ensure that labor, environmental, health, or safety policies and practices of the parties to trade agreements with the United States do not arbitrarily or unjustifiably discriminate against United States exports or serve as disguised barriers to trade;

(H) to ensure that enforceable labor and environment obligations are subject to the same dispute settlement and remedies as other enforceable obligations under the agreement; and

(I) to ensure that a trade agreement is not construed to empower a party's authorities to undertake labor or environmental law enforcement activities in the territory of the United States.

(11) CURRENCY.—The principal negotiating objective of the United States with respect to currency practices is that parties to a trade agreement with the United States avoid manipulating exchange rates in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other parties to the agreement, such as through cooperative mechanisms, enforceable rules, reporting, monitoring, transparency, or other means, as appropriate.

(12) WTO AND MULTILATERAL TRADE AGREEMENTS.—Recognizing that the World Trade Organization is the foundation of the global trading system, the principal negotiating objectives of the United States regarding the World Trade Organization, the Uruguay Round Agreements, and other multilateral and plurilateral trade agreements are—

(A) to achieve full implementation and extend the coverage of the World Trade Organization and multilateral and plurilateral agreements to products, sectors, and conditions of trade not adequately covered;

(B) to expand country participation in and enhancement of the Information Technology Agreement, the Government Procurement Agreement, and other plurilateral trade agreements of the World Trade Organization;

(C) to expand competitive market opportunities for United States exports and to obtain fairer and more open conditions of trade, including through utilization of global value chains, through the negotiation of new WTO multilateral and plurilateral trade agreements, such as an agreement on trade facilitation;

(D) to ensure that regional trade agreements to which the United States is not a party fully achieve the high standards of, and comply with, WTO disciplines, including Article XXIV of GATT 1994, Article V and V bis of the General Agreement on Trade in Services, and the Enabling Clause, including through meaningful WTO review of such regional trade agreements;

(E) to enhance compliance by WTO members with their obligations as WTO members through active participation in the bodies of the World Trade Organization by the United States and all other WTO members, including in the trade policy review mechanism and the committee system of the World Trade Organization, and by working to increase the effectiveness of such bodies; and

(F) to encourage greater cooperation between the World Trade Organization and other international organizations.

(13) TRADE INSTITUTION TRANSPARENCY.—The principal negotiating objective of the United States with respect to transparency is to obtain wider and broader application of the principle of transparency in the World Trade Organization, entities established under bilateral and regional trade agreements, and other international trade fora through seeking—

(A) timely public access to information regarding trade issues and the activities of such institutions;

(B) openness by ensuring public access to appropriate meetings, proceedings, and submissions, including with regard to trade and investment dispute settlement; and

(C) public access to all notifications and supporting documentation submitted by WTO members.

(14) ANTI-CORRUPTION.—The principal negotiating objectives of the United States with respect to the use of money or other things of value to influence acts, decisions, or omissions of foreign governments or officials or to secure any improper advantage in a manner affecting trade are—

(A) to obtain high standards and effective domestic enforcement mechanisms applicable to persons from all countries participating in the applicable trade agreement that prohibit such attempts to influence acts, decisions, or omissions of foreign governments or officials or to secure any such improper advantage;

(B) to ensure that such standards level the playing field for United States persons in international trade and investment; and

(C) to seek commitments to work jointly to encourage and support anti-corruption and anti-bribery initiatives in international trade fora, including through the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of the Organization for Economic Cooperation and Development, done at Paris December 17, 1997 (commonly known as the "OECD Anti-Bribery Convention").

(15) DISPUTE SETTLEMENT AND ENFORCEMENT.—The principal negotiating objectives of the United States with respect to dispute settlement and enforcement of trade agreements are—

(A) to seek provisions in trade agreements providing for resolution of disputes between governments under those trade agreements in an effective, timely, transparent, equitable, and reasoned manner, requiring determinations based on facts and the principles of the agreements, with the goal of increasing compliance with the agreements;

(B) to seek to strengthen the capacity of the Trade Policy Review Mechanism of the World Trade Organization to review compliance with commitments;

(C) to seek adherence by panels convened under the Dispute Settlement Understanding and by the Appellate Body to—

(i) the mandate of those panels and the Appellate Body to apply the WTO Agreement as written, without adding to or diminishing rights and obligations under the Agreement; and

(ii) the standard of review applicable under the Uruguay Round Agreement involved in the dispute, including greater deference, where

appropriate, to the fact finding and technical expertise of national investigating authorities;

(D) to seek provisions encouraging the early identification and settlement of disputes through consultation;

(E) to seek provisions to encourage the provision of trade-expanding compensation if a party to a dispute under the agreement does not come into compliance with its obligations under the agreement;

(F) to seek provisions to impose a penalty upon a party to a dispute under the agreement that—

(i) encourages compliance with the obligations of the agreement;

(ii) is appropriate to the parties, nature, subject matter, and scope of the violation; and

(iii) has the aim of not adversely affecting parties or interests not party to the dispute while maintaining the effectiveness of the enforcement mechanism; and

(G) to seek provisions that treat United States principal negotiating objectives equally with respect to—

(i) the ability to resort to dispute settlement under the applicable agreement;

(ii) the availability of equivalent dispute settlement procedures; and

(iii) the availability of equivalent remedies.

(16) TRADE REMEDY LAWS.—The principal negotiating objectives of the United States with respect to trade remedy laws are—

(A) to preserve the ability of the United States to enforce rigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws, and avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies, or that lessen the effectiveness of domestic and international safeguard provisions, in order to ensure that United States workers, agricultural producers, and firms can compete fully on fair terms and enjoy the benefits of reciprocal trade concessions; and

(B) to address and remedy market distortions that lead to dumping and subsidization, including overcapacity, cartelization, and market access barriers.

(17) BORDER TAXES.—The principal negotiating objective of the United States regarding border taxes is to obtain a revision of the rules of the World Trade Organization with respect to the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct taxes for revenue rather than indirect taxes.

(18) TEXTILE NEGOTIATIONS.—The principal negotiating objectives of the United States with respect to trade in textiles and apparel articles are to obtain competitive opportunities for United States exports of textiles and apparel in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of trade in textiles and apparel.

(19) COMMERCIAL PARTNERSHIPS.—

(A) IN GENERAL.—With respect to an agreement that is proposed to be entered into with the Transatlantic Trade and Investment Partnership countries and to which section 3(b) will apply, the principal negotiating objectives of the United States regarding commercial partnerships are the following:

(i) To discourage actions by potential trading partners that directly or indirectly prejudice or otherwise discourage commercial activity solely between the United States and Israel.

(ii) To discourage politically motivated actions to boycott, divest from, or sanction Israel and to seek the elimination of politically motivated non-tariff barriers on Israeli goods, services, or other commerce imposed on the State of Israel.

(iii) To seek the elimination of state-sponsored unsanctioned foreign boycotts against Israel or compliance with the Arab League Boycott of Israel by prospective trading partners.

(B) DEFINITION.—In this paragraph, the term "actions to boycott, divest from, or sanction Israel" means actions by states, non-member states of the United Nations, international organizations, or affiliated agencies of international organizations that are politically motivated and are intended to penalize or otherwise limit commercial relations specifically with Israel or persons doing business in Israel or in Israeli-controlled territories.

(20) GOOD GOVERNANCE, TRANSPARENCY, THE EFFECTIVE OPERATION OF LEGAL REGIMES, AND THE RULE OF LAW OF TRADING PARTNERS.—The principal negoti-

ating objectives of the United States with respect to ensuring implementation of trade commitments and obligations by strengthening good governance, transparency, the effective operation of legal regimes and the rule of law of trading partners of the United States is through capacity building and other appropriate means, which are important parts of the broader effort to create more open democratic societies and to promote respect for internationally recognized human rights.

(c) CAPACITY BUILDING AND OTHER PRIORITIES.—In order to address and maintain United States competitiveness in the global economy, the President shall—

(1) direct the heads of relevant Federal agencies—

(A) to work to strengthen the capacity of United States trading partners to carry out obligations under trade agreements by consulting with any country seeking a trade agreement with the United States concerning that country's laws relating to customs and trade facilitation, sanitary and phytosanitary measures, technical barriers to trade, intellectual property rights, labor, and the environment; and

(B) to provide technical assistance to that country if needed;

(2) seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of United States trading partners to develop and implement standards for the protection of the environment and human health based on sound science;

(3) promote consideration of multilateral environmental agreements and consult with parties to such agreements regarding the consistency of any such agreement that includes trade measures with existing environmental exceptions under Article XX of GATT 1994; and

(4) submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate an annual report on capacity-building activities undertaken in connection with trade agreements negotiated or being negotiated pursuant to this Act.

SEC. 3. TRADE AGREEMENTS AUTHORITY.

(a) AGREEMENTS REGARDING TARIFF BARRIERS.—

(1) IN GENERAL.—Whenever the President determines that one or more existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes, policies, priorities, and objectives of this Act will be promoted thereby, the President—

(A) may enter into trade agreements with foreign countries before—

(i) July 1, 2018; or

(ii) July 1, 2021, if trade authorities procedures are extended under subsection (c); and

(B) may, subject to paragraphs (2) and (3), proclaim—

(i) such modification or continuance of any existing duty,

(ii) such continuance of existing duty free or excise treatment, or

(iii) such additional duties,

as the President determines to be required or appropriate to carry out any such trade agreement.

Substantial modifications to, or substantial additional provisions of, a trade agreement entered into after July 1, 2018, or July 1, 2021, if trade authorities procedures are extended under subsection (c), shall not be eligible for approval under this Act.

(2) NOTIFICATION.—The President shall notify Congress of the President's intention to enter into an agreement under this subsection.

(3) LIMITATIONS.—No proclamation may be made under paragraph (1) that—

(A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on the date of the enactment of this Act) to a rate of duty which is less than 50 percent of the rate of such duty that applies on such date of enactment;

(B) reduces the rate of duty below that applicable under the Uruguay Round Agreements or a successor agreement, on any import sensitive agricultural product; or

(C) increases any rate of duty above the rate that applied on the date of the enactment of this Act.

(4) AGGREGATE REDUCTION; EXEMPTION FROM STAGING.—

(A) AGGREGATE REDUCTION.—Except as provided in subparagraph (B), the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a trade agreement entered into under paragraph (1) shall not exceed the aggregate reduction which would have been in effect on such day if—

(i) a reduction of 3 percent ad valorem or a reduction of 1/10 of the total reduction, whichever is greater, had taken effect on the effective date of the first reduction proclaimed under paragraph (1) to carry out such agreement with respect to such article; and

(ii) a reduction equal to the amount applicable under clause (i) had taken effect at 1-year intervals after the effective date of such first reduction.

(B) EXEMPTION FROM STAGING.—No staging is required under subparagraph (A) with respect to a duty reduction that is proclaimed under paragraph (1) for an article of a kind that is not produced in the United States. The United States International Trade Commission shall advise the President of the identity of articles that may be exempted from staging under this subparagraph.

(5) ROUNDING.—If the President determines that such action will simplify the computation of reductions under paragraph (4), the President may round an annual reduction by an amount equal to the lesser of—

(A) the difference between the reduction without regard to this paragraph and the next lower whole number; or

(B) ½ of 1 percent ad valorem.

(6) OTHER LIMITATIONS.—A rate of duty reduction that may not be proclaimed by reason of paragraph (3) may take effect only if a provision authorizing such reduction is included within an implementing bill provided for under section 6 and that bill is enacted into law.

(7) OTHER TARIFF MODIFICATIONS.—Notwithstanding paragraphs (1)(B), (3)(A), (3)(C), and (4) through (6), and subject to the consultation and layover requirements of section 115 of the Uruguay Round Agreements Act (19 U.S.C. 3524), the President may proclaim the modification of any duty or staged rate reduction of any duty set forth in Schedule XX, as defined in section 2(5) of that Act (19 U.S.C. 3501(5)), if the United States agrees to such modification or staged rate reduction in a negotiation for the reciprocal elimination or harmonization of duties under the auspices of the World Trade Organization.

(8) AUTHORITY UNDER URUGUAY ROUND AGREEMENTS ACT NOT AFFECTED.—Nothing in this subsection shall limit the authority provided to the President under section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(b) AGREEMENTS REGARDING TARIFF AND NONTARIFF BARRIERS.—

(1) IN GENERAL.—(A) Whenever the President determines that—

(i) 1 or more existing duties or any other import restriction of any foreign country or the United States or any other barrier to, or other distortion of, international trade unduly burdens or restricts the foreign trade of the United States or adversely affects the United States economy, or

(ii) the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect,

and that the purposes, policies, priorities, and objectives of this Act will be promoted thereby, the President may enter into a trade agreement described in subparagraph (B) during the period described in subparagraph (C).

(B) The President may enter into a trade agreement under subparagraph (A) with foreign countries providing for—

(i) the reduction or elimination of a duty, restriction, barrier, or other distortion described in subparagraph (A); or

(ii) the prohibition of, or limitation on the imposition of, such barrier or other distortion.

(C) The President may enter into a trade agreement under this paragraph before—

(i) July 1, 2018; or

(ii) July 1, 2021, if trade authorities procedures are extended under subsection (c).

Substantial modifications to, or substantial additional provisions of, a trade agreement entered into after July 1, 2018, or July 1, 2021, if trade authorities procedures are extended under subsection (c), shall not be eligible for approval under this Act.

(2) CONDITIONS.—A trade agreement may be entered into under this subsection only if such agreement makes progress in meeting the applicable objectives described in subsections (a) and (b) of section 2 and the President satisfies the conditions set forth in sections 4 and 5.

(3) BILLS QUALIFYING FOR TRADE AUTHORITIES PROCEDURES.—(A) The provisions of section 151 of the Trade Act of 1974 (in this Act referred to as "trade authorities procedures") apply to a bill of either House of Congress which contains provisions described in subparagraph (B) to the same extent as such section 151 applies to implementing bills under that section. A bill to which this

paragraph applies shall hereafter in this Act be referred to as an "implementing bill".

(B) The provisions referred to in subparagraph (A) are—

(i) a provision approving a trade agreement entered into under this subsection and approving the statement of administrative action, if any, proposed to implement such trade agreement; and

(ii) if changes in existing laws or new statutory authority are required to implement such trade agreement or agreements, only such provisions as are strictly necessary or appropriate to implement such trade agreement or agreements, either repealing or amending existing laws or providing new statutory authority.

(c) EXTENSION DISAPPROVAL PROCESS FOR CONGRESSIONAL TRADE AUTHORITIES PROCEDURES.—

(1) IN GENERAL.—Except as provided in section 6(b)—

(A) the trade authorities procedures apply to implementing bills submitted with respect to trade agreements entered into under subsection (b) before July 1, 2018; and

(B) the trade authorities procedures shall be extended to implementing bills submitted with respect to trade agreements entered into under subsection (b) after June 30, 2018, and before July 1, 2021, if (and only if)—

(i) the President requests such extension under paragraph (2); and

(ii) neither House of Congress adopts an extension disapproval resolution under paragraph (5) before July 1, 2018.

(2) REPORT TO CONGRESS BY THE PRESIDENT.—If the President is of the opinion that the trade authorities procedures should be extended to implementing bills described in paragraph (1)(B), the President shall submit to Congress, not later than April 1, 2018, a written report that contains a request for such extension, together with—

(A) a description of all trade agreements that have been negotiated under subsection (b) and the anticipated schedule for submitting such agreements to Congress for approval;

(B) a description of the progress that has been made in negotiations to achieve the purposes, policies, priorities, and objectives of this Act, and a statement that such progress justifies the continuation of negotiations; and

(C) a statement of the reasons why the extension is needed to complete the negotiations.

(3) OTHER REPORTS TO CONGRESS.—

(A) REPORT BY THE ADVISORY COMMITTEE.—The President shall promptly inform the Advisory Committee for Trade Policy and Negotiations established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) of the decision of the President to submit a report to Congress under paragraph (2). The Advisory Committee shall submit to Congress as soon as practicable, but not later than June 1, 2018, a written report that contains—

(i) its views regarding the progress that has been made in negotiations to achieve the purposes, policies, priorities, and objectives of this Act; and

(ii) a statement of its views, and the reasons therefor, regarding whether the extension requested under paragraph (2) should be approved or disapproved.

(B) REPORT BY INTERNATIONAL TRADE COMMISSION.—The President shall promptly inform the United States International Trade Commission of the decision of the President to submit a report to Congress under paragraph (2). The International Trade Commission shall submit to Congress as soon as practicable, but not later than June 1, 2018, a written report that contains a review and analysis of the economic impact on the United States of all trade agreements implemented between the date of the enactment of this Act and the date on which the President decides to seek an extension requested under paragraph (2).

(4) STATUS OF REPORTS.—The reports submitted to Congress under paragraphs (2) and (3), or any portion of such reports, may be classified to the extent the President determines appropriate.

(5) EXTENSION DISAPPROVAL RESOLUTIONS.—(A) For purposes of paragraph (1), the term "extension disapproval resolution" means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: "That the _____ disapproves the request of the President for the extension, under section 3(c)(1)(B)(i) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, of the trade authorities procedures under that Act to any implementing bill submitted with respect to any trade agreement entered

into under section 3(b) of that Act after June 30, 2018.", with the blank space being filled with the name of the resolving House of Congress.

(B) Extension disapproval resolutions—

(i) may be introduced in either House of Congress by any member of such House; and

(ii) shall be referred, in the House of Representatives, to the Committee on Ways and Means and, in addition, to the Committee on Rules.

(C) The provisions of subsections (d) and (e) of section 152 of the Trade Act of 1974 (19 U.S.C. 2192) (relating to the floor consideration of certain resolutions in the House and Senate) apply to extension disapproval resolutions.

(D) It is not in order for—

(i) the House of Representatives to consider any extension disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules;

(ii) the Senate to consider any extension disapproval resolution not reported by the Committee on Finance; or

(iii) either House of Congress to consider an extension disapproval resolution after June 30, 2018.

(d) COMMENCEMENT OF NEGOTIATIONS.—In order to contribute to the continued economic expansion of the United States, the President shall commence negotiations covering tariff and nontariff barriers affecting any industry, product, or service sector, and expand existing sectoral agreements to countries that are not parties to those agreements, in cases where the President determines that such negotiations are feasible and timely and would benefit the United States. Such sectors include agriculture, commercial services, intellectual property rights, industrial and capital goods, government procurement, information technology products, environmental technology and services, medical equipment and services, civil aircraft, and infrastructure products. In so doing, the President shall take into account all of the negotiating objectives set forth in section 2.

SEC. 4. CONGRESSIONAL OVERSIGHT, CONSULTATIONS, AND ACCESS TO INFORMATION.

(a) CONSULTATIONS WITH MEMBERS OF CONGRESS.—

(1) CONSULTATIONS DURING NEGOTIATIONS.—In the course of negotiations conducted under this Act, the United States Trade Representative shall—

(A) meet upon request with any Member of Congress regarding negotiating objectives, the status of negotiations in progress, and the nature of any changes in the laws of the United States or the administration of those laws that may be recommended to Congress to carry out any trade agreement or any requirement of, amendment to, or recommendation under, that agreement;

(B) upon request of any Member of Congress, provide access to pertinent documents relating to the negotiations, including classified materials;

(C) consult closely and on a timely basis with, and keep fully apprised of the negotiations, the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate;

(D) consult closely and on a timely basis with, and keep fully apprised of the negotiations, the House Advisory Group on Negotiations and the Senate Advisory Group on Negotiations convened under subsection (c) and all committees of the House of Representatives and the Senate with jurisdiction over laws that could be affected by a trade agreement resulting from the negotiations; and

(E) with regard to any negotiations and agreement relating to agricultural trade, also consult closely and on a timely basis (including immediately before initialing an agreement) with, and keep fully apprised of the negotiations, the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(2) CONSULTATIONS PRIOR TO ENTRY INTO FORCE.—Prior to exchanging notes providing for the entry into force of a trade agreement, the United States Trade Representative shall consult closely and on a timely basis with Members of Congress and committees as specified in paragraph (1), and keep them fully apprised of the measures a trading partner has taken to comply with those provisions of the agreement that are to take effect on the date that the agreement enters into force.

(3) ENHANCED COORDINATION WITH CONGRESS.—

(A) WRITTEN GUIDELINES.—The United States Trade Representative, in consultation with the chairmen and the ranking members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, respectively—

(i) shall, not later than 120 days after the date of the enactment of this Act, develop written guidelines on enhanced coordination with Congress, including coordination with designated congressional advisers under subsection (b), regarding negotiations conducted under this Act; and

(ii) may make such revisions to the guidelines as may be necessary from time to time.

(B) CONTENT OF GUIDELINES.—The guidelines developed under subparagraph (A) shall enhance coordination with Congress through procedures to ensure—

(i) timely briefings upon request of any Member of Congress regarding negotiating objectives, the status of negotiations in progress conducted under this Act, and the nature of any changes in the laws of the United States or the administration of those laws that may be recommended to Congress to carry out any trade agreement or any requirement of, amendment to, or recommendation under, that agreement; and

(ii) the sharing of detailed and timely information with Members of Congress, and their staff with proper security clearances as appropriate, regarding those negotiations and pertinent documents related to those negotiations (including classified information), and with committee staff with proper security clearances as would be appropriate in the light of the responsibilities of that committee over the trade agreements programs affected by those negotiations.

(C) DISSEMINATION.—The United States Trade Representative shall disseminate the guidelines developed under subparagraph (A) to all Federal agencies that could have jurisdiction over laws affected by trade negotiations.

(b) DESIGNATED CONGRESSIONAL ADVISERS.—

(1) DESIGNATION.—

(A) HOUSE OF REPRESENTATIVES.—In each Congress, any Member of the House of Representatives may be designated as a congressional adviser on trade policy and negotiations by the Speaker of the House of Representatives, after consulting with the chairman and ranking member of the Committee on Ways and Means and the chairman and ranking member of the committee from which the Member will be selected.

(B) SENATE.—In each Congress, any Member of the Senate may be designated as a congressional adviser on trade policy and negotiations by the President pro tempore of the Senate, after consultation with the chairman and ranking member of the Committee on Finance and the chairman and ranking member of the committee from which the Member will be selected.

(2) CONSULTATIONS WITH DESIGNATED CONGRESSIONAL ADVISERS.—In the course of negotiations conducted under this Act, the United States Trade Representative shall consult closely and on a timely basis (including immediately before initialing an agreement) with, and keep fully apprised of the negotiations, the congressional advisers for trade policy and negotiations designated under paragraph (1).

(3) ACCREDITATION.—Each Member of Congress designated as a congressional adviser under paragraph (1) shall be accredited by the United States Trade Representative on behalf of the President as an official adviser to the United States delegations to international conferences, meetings, and negotiating sessions relating to trade agreements.

(c) CONGRESSIONAL ADVISORY GROUPS ON NEGOTIATIONS.—

(1) IN GENERAL.—By not later than 60 days after the date of the enactment of this Act, and not later than 30 days after the convening of each Congress, the chairman of the Committee on Ways and Means of the House of Representatives shall convene the House Advisory Group on Negotiations and the chairman of the Committee on Finance of the Senate shall convene the Senate Advisory Group on Negotiations (in this subsection referred to collectively as the "congressional advisory groups").

(2) MEMBERS AND FUNCTIONS.—

(A) MEMBERSHIP OF THE HOUSE ADVISORY GROUP ON NEGOTIATIONS.—In each Congress, the House Advisory Group on Negotiations shall be comprised of the following Members of the House of Representatives:

(i) The chairman and ranking member of the Committee on Ways and Means, and 3 additional members of such Committee (not more than 2 of whom are members of the same political party).

(ii) The chairman and ranking member, or their designees, of the committees of the House of Representatives that would have, under the

Rules of the House of Representatives, jurisdiction over provisions of law affected by a trade agreement negotiation conducted at any time during that Congress and to which this Act would apply.

(B) MEMBERSHIP OF THE SENATE ADVISORY GROUP ON NEGOTIATIONS.—In each Congress, the Senate Advisory Group on Negotiations shall be comprised of the following Members of the Senate:

(i) The chairman and ranking member of the Committee on Finance and 3 additional members of such Committee (not more than 2 of whom are members of the same political party).

(ii) The chairman and ranking member, or their designees, of the committees of the Senate that would have, under the Rules of the Senate, jurisdiction over provisions of law affected by a trade agreement negotiation conducted at any time during that Congress and to which this Act would apply.

(C) ACCREDITATION.—Each member of the congressional advisory groups described in subparagraphs (A)(i) and (B)(i) shall be accredited by the United States Trade Representative on behalf of the President as an official adviser to the United States delegation in negotiations for any trade agreement to which this Act applies. Each member of the congressional advisory groups described in subparagraphs (A)(ii) and (B)(ii) shall be accredited by the United States Trade Representative on behalf of the President as an official adviser to the United States delegation in the negotiations by reason of which the member is in one of the congressional advisory groups.

(D) CONSULTATION AND ADVICE.—The congressional advisory groups shall consult with and provide advice to the Trade Representative regarding the formulation of specific objectives, negotiating strategies and positions, the development of the applicable trade agreement, and compliance and enforcement of the negotiated commitments under the trade agreement.

(E) CHAIR.—The House Advisory Group on Negotiations shall be chaired by the Chairman of the Committee on Ways and Means of the House of Representatives and the Senate Advisory Group on Negotiations shall be chaired by the Chairman of the Committee on Finance of the Senate.

(F) COORDINATION WITH OTHER COMMITTEES.—Members of any committee represented on one of the congressional advisory groups may submit comments to the member of the appropriate congressional advisory group from that committee regarding any matter related to a negotiation for any trade agreement to which this Act applies.

(3) GUIDELINES.—

(A) PURPOSE AND REVISION.—The United States Trade Representative, in consultation with the chairmen and the ranking members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, respectively—

(i) shall, not later than 120 days after the date of the enactment of this Act, develop written guidelines to facilitate the useful and timely exchange of information between the Trade Representative and the congressional advisory groups; and

(ii) may make such revisions to the guidelines as may be necessary from time to time.

(B) CONTENT.—The guidelines developed under subparagraph (A) shall provide for, among other things—

(i) detailed briefings on a fixed timetable to be specified in the guidelines of the congressional advisory groups regarding negotiating objectives and positions and the status of the applicable negotiations, beginning as soon as practicable after the congressional advisory groups are convened, with more frequent briefings as trade negotiations enter the final stage;

(ii) access by members of the congressional advisory groups, and staff with proper security clearances, to pertinent documents relating to the negotiations, including classified materials;

(iii) the closest practicable coordination between the Trade Representative and the congressional advisory groups at all critical periods during the negotiations, including at negotiation sites;

(iv) after the applicable trade agreement is concluded, consultation regarding ongoing compliance and enforcement of negotiated commitments under the trade agreement; and

(v) the timeframe for submitting the report required under section 5(d)(3).

(4) REQUEST FOR MEETING.—Upon the request of a majority of either of the congressional advisory groups, the President shall meet with that congressional

advisory group before initiating negotiations with respect to a trade agreement, or at any other time concerning the negotiations.

(d) CONSULTATIONS WITH THE PUBLIC.—

(1) GUIDELINES FOR PUBLIC ENGAGEMENT.—The United States Trade Representative, in consultation with the chairmen and the ranking members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, respectively—

(A) shall, not later than 120 days after the date of the enactment of this Act, develop written guidelines on public access to information regarding negotiations conducted under this Act; and

(B) may make such revisions to the guidelines as may be necessary from time to time.

(2) PURPOSES.—The guidelines developed under paragraph (1) shall—

(A) facilitate transparency;

(B) encourage public participation; and

(C) promote collaboration in the negotiation process.

(3) CONTENT.—The guidelines developed under paragraph (1) shall include procedures that—

(A) provide for rapid disclosure of information in forms that the public can readily find and use; and

(B) provide frequent opportunities for public input through Federal Register requests for comment and other means.

(4) DISSEMINATION.—The United States Trade Representative shall disseminate the guidelines developed under paragraph (1) to all Federal agencies that could have jurisdiction over laws affected by trade negotiations.

(e) CONSULTATIONS WITH ADVISORY COMMITTEES.—

(1) GUIDELINES FOR ENGAGEMENT WITH ADVISORY COMMITTEES.—The United States Trade Representative, in consultation with the chairmen and the ranking members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, respectively—

(A) shall, not later than 120 days after the date of the enactment of this Act, develop written guidelines on enhanced coordination with advisory committees established pursuant to section 135 of the Trade Act of 1974 (19 U.S.C. 2155) regarding negotiations conducted under this Act; and

(B) may make such revisions to the guidelines as may be necessary from time to time.

(2) CONTENT.—The guidelines developed under paragraph (1) shall enhance coordination with advisory committees described in that paragraph through procedures to ensure—

(A) timely briefings of advisory committees and regular opportunities for advisory committees to provide input throughout the negotiation process on matters relevant to the sectors or functional areas represented by those committees; and

(B) the sharing of detailed and timely information with each member of an advisory committee regarding negotiations and pertinent documents related to the negotiation (including classified information) on matters relevant to the sectors or functional areas the member represents, and with a designee with proper security clearances of each such member as appropriate.

(3) DISSEMINATION.—The United States Trade Representative shall disseminate the guidelines developed under paragraph (1) to all Federal agencies that could have jurisdiction over laws affected by trade negotiations.

(f) ESTABLISHMENT OF POSITION OF CHIEF TRANSPARENCY OFFICER IN THE OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.—Section 141(b) of the Trade Act of 1974 (19 U.S.C. 2171(b)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

"(3) There shall be in the Office one Chief Transparency Officer. The Chief Transparency Officer shall consult with Congress on transparency policy, coordinate transparency in trade negotiations, engage and assist the public, and advise the United States Trade Representative on transparency policy.".

SEC. 5. NOTICE, CONSULTATIONS, AND REPORTS.

(a) NOTICE, CONSULTATIONS, AND REPORTS BEFORE NEGOTIATION.—

(1) NOTICE.—The President, with respect to any agreement that is subject to the provisions of section 3(b), shall—

(A) provide, at least 90 calendar days before initiating negotiations with a country, written notice to Congress of the President's intention to enter into the negotiations with that country and set forth in the notice the date

on which the President intends to initiate those negotiations, the specific United States objectives for the negotiations with that country, and whether the President intends to seek an agreement, or changes to an existing agreement;

(B) before and after submission of the notice, consult regarding the negotiations with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, such other committees of the House and Senate as the President deems appropriate, and the House Advisory Group on Negotiations and the Senate Advisory Group on Negotiations convened under section 4(c);

(C) upon the request of a majority of the members of either the House Advisory Group on Negotiations or the Senate Advisory Group on Negotiations convened under section 4(c), meet with the requesting congressional advisory group before initiating the negotiations or at any other time concerning the negotiations; and

(D) after consulting with the Committee on Ways and Means and the Committee on Finance, and at least 30 calendar days before initiating negotiations with a country, publish on a publicly available Internet website of the Office of the United States Trade Representative, and regularly update thereafter, a detailed and comprehensive summary of the specific objectives with respect to the negotiations, and a description of how the agreement, if successfully concluded, will further those objectives and benefit the United States.

(2) NEGOTIATIONS REGARDING AGRICULTURE.—

(A) ASSESSMENT AND CONSULTATIONS FOLLOWING ASSESSMENT.—Before initiating or continuing negotiations the subject matter of which is directly related to the subject matter under section 2(b)(3)(B) with any country, the President shall—

(i) assess whether United States tariffs on agricultural products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country;

(ii) consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than United States tariffs and whether the negotiation provides an opportunity to address any such disparity; and

(iii) consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the results of the assessment, whether it is appropriate for the United States to agree to further tariff reductions based on the conclusions reached in the assessment, and how all applicable negotiating objectives will be met.

(B) SPECIAL CONSULTATIONS ON IMPORT SENSITIVE PRODUCTS.—(i) Before initiating negotiations with regard to agriculture and, with respect to agreements described in paragraphs (2) and (3) of section 7(a), as soon as practicable after the date of the enactment of this Act, the United States Trade Representative shall—

(I) identify those agricultural products subject to tariff rate quotas on the date of enactment of this Act, and agricultural products subject to tariff reductions by the United States as a result of the Uruguay Round Agreements, for which the rate of duty was reduced on January 1, 1995, to a rate which was not less than 97.5 percent of the rate of duty that applied to such article on December 31, 1994;

(II) consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning—

(aa) whether any further tariff reductions on the products identified under subclause (I) should be appropriate, taking into account the impact of any such tariff reduction on the United States industry producing the product concerned;

(bb) whether the products so identified face unjustified sanitary or phytosanitary restrictions, including those not based on scientific principles in contravention of the Uruguay Round Agreements; and

(cc) whether the countries participating in the negotiations maintain export subsidies or other programs, policies, or practices that distort world trade in such products and the impact of such pro-

grams, policies, and practices on United States producers of the products;

(III) request that the International Trade Commission prepare an assessment of the probable economic effects of any such tariff reduction on the United States industry producing the product concerned and on the United States economy as a whole; and

(IV) upon complying with subclauses (I), (II), and (III), notify the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate of those products identified under subclause (I) for which the Trade Representative intends to seek tariff liberalization in the negotiations and the reasons for seeking such tariff liberalization.

(ii) If, after negotiations described in clause (i) are commenced—

(I) the United States Trade Representative identifies any additional agricultural product described in clause (i)(I) for tariff reductions which were not the subject of a notification under clause (i)(IV), or

(II) any additional agricultural product described in clause (i)(I) is the subject of a request for tariff reductions by a party to the negotiations,

the Trade Representative shall, as soon as practicable, notify the committees referred to in clause (i)(IV) of those products and the reasons for seeking such tariff reductions.

(3) NEGOTIATIONS REGARDING THE FISHING INDUSTRY.—Before initiating, or continuing, negotiations that directly relate to fish or shellfish trade with any country, the President shall consult with the Committee on Ways and Means and the Committee on Natural Resources of the House of Representatives, and the Committee on Finance and the Committee on Commerce, Science, and Transportation of the Senate, and shall keep the Committees apprised of the negotiations on an ongoing and timely basis.

(4) NEGOTIATIONS REGARDING TEXTILES.—Before initiating or continuing negotiations the subject matter of which is directly related to textiles and apparel products with any country, the President shall—

(A) assess whether United States tariffs on textile and apparel products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country and whether the negotiation provides an opportunity to address any such disparity; and

(B) consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning the results of the assessment, whether it is appropriate for the United States to agree to further tariff reductions based on the conclusions reached in the assessment, and how all applicable negotiating objectives will be met.

(5) ADHERENCE TO EXISTING INTERNATIONAL TRADE AND INVESTMENT AGREEMENT OBLIGATIONS.—In determining whether to enter into negotiations with a particular country, the President shall take into account the extent to which that country has implemented, or has accelerated the implementation of, its international trade and investment commitments to the United States, including pursuant to the WTO Agreement.

(b) CONSULTATION WITH CONGRESS BEFORE ENTRY INTO AGREEMENT.—

(1) CONSULTATION.—Before entering into any trade agreement under section 3(b), the President shall consult with—

(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate;

(B) each other committee of the House and the Senate, and each joint committee of Congress, which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement; and

(C) the House Advisory Group on Negotiations and the Senate Advisory Group on Negotiations convened under section 4(c).

(2) SCOPE.—The consultation described in paragraph (1) shall include consultation with respect to—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, priorities, and objectives of this Act; and

(C) the implementation of the agreement under section 6, including the general effect of the agreement on existing laws.

(3) REPORT REGARDING UNITED STATES TRADE REMEDY LAWS.—

(A) CHANGES IN CERTAIN TRADE LAWS.—The President, not less than 180 calendar days before the day on which the President enters into a trade agreement under section 3(b), shall report to the Committee on Ways and

Means of the House of Representatives and the Committee on Finance of the Senate—

(i) the range of proposals advanced in the negotiations with respect to that agreement, that may be in the final agreement, and that could require amendments to title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.) or to chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.); and

(ii) how these proposals relate to the objectives described in section 2(b)(16).

(B) RESOLUTIONS.—(i) At any time after the transmission of the report under subparagraph (A), if a resolution is introduced with respect to that report in either House of Congress, the procedures set forth in clauses (iii) through (vii) shall apply to that resolution if—

(I) no other resolution with respect to that report has previously been reported in that House of Congress by the Committee on Ways and Means or the Committee on Finance, as the case may be, pursuant to those procedures; and

(II) no procedural disapproval resolution under section 6(b) introduced with respect to a trade agreement entered into pursuant to the negotiations to which the report under subparagraph (A) relates has previously been reported in that House of Congress by the Committee on Ways and Means or the Committee on Finance, as the case may be.

(ii) For purposes of this subparagraph, the term "resolution" means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the _____ finds that the proposed changes to United States trade remedy laws contained in the report of the President transmitted to Congress on _____ under section 5(b)(3) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 with respect to _____, are inconsistent with the negotiating objectives described in section 2(b)(16) of that Act.", with the first blank space being filled with the name of the resolving House of Congress, the second blank space being filled with the appropriate date of the report, and the third blank space being filled with the name of the country or countries involved.

(iii) Resolutions in the House of Representatives—

(I) may be introduced by any Member of the House;

(II) shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules; and

(III) may not be amended by either Committee.

(iv) Resolutions in the Senate—

(I) may be introduced by any Member of the Senate;

(II) shall be referred to the Committee on Finance; and

(III) may not be amended.

(v) It is not in order for the House of Representatives to consider any resolution that is not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules.

(vi) It is not in order for the Senate to consider any resolution that is not reported by the Committee on Finance.

(vii) The provisions of subsections (d) and (e) of section 152 of the Trade Act of 1974 (19 U.S.C. 2192) (relating to floor consideration of certain resolutions in the House and Senate) shall apply to resolutions.

(4) ADVISORY COMMITTEE REPORTS.—The report required under section 135(e)(1) of the Trade Act of 1974 (19 U.S.C. 2155(e)(1)) regarding any trade agreement entered into under subsection (a) or (b) of section 3 shall be provided to the President, Congress, and the United States Trade Representative not later than 30 days after the date on which the President notifies Congress under section 3(a)(2) or 6(a)(1)(A) of the intention of the President to enter into the agreement.

(c) INTERNATIONAL TRADE COMMISSION ASSESSMENT.—

(1) SUBMISSION OF INFORMATION TO COMMISSION.—The President, not later than 90 calendar days before the day on which the President enters into a trade agreement under section 3(b), shall provide the International Trade Commission (referred to in this subsection as the "Commission") with the details of the agreement as it exists at that time and request the Commission to prepare and submit an assessment of the agreement as described in paragraph (2). Between the time the President makes the request under this paragraph and the time the Commission submits the assessment, the President shall keep the Commission current with respect to the details of the agreement.

(2) ASSESSMENT.—Not later than 105 calendar days after the President enters into a trade agreement under section 3(b), the Commission shall submit to the

President and Congress a report assessing the likely impact of the agreement on the United States economy as a whole and on specific industry sectors, including the impact the agreement will have on the gross domestic product, exports and imports, aggregate employment and employment opportunities, the production, employment, and competitive position of industries likely to be significantly affected by the agreement, and the interests of United States consumers.

(3) REVIEW OF EMPIRICAL LITERATURE.—In preparing the assessment under paragraph (2), the Commission shall review available economic assessments regarding the agreement, including literature regarding any substantially equivalent proposed agreement, and shall provide in its assessment a description of the analyses used and conclusions drawn in such literature, and a discussion of areas of consensus and divergence between the various analyses and conclusions, including those of the Commission regarding the agreement.

(4) PUBLIC AVAILABILITY.—The President shall make each assessment under paragraph (2) available to the public.

(d) REPORTS SUBMITTED TO COMMITTEES WITH AGREEMENT.—

(1) ENVIRONMENTAL REVIEWS AND REPORTS.—The President shall—

(A) conduct environmental reviews of future trade and investment agreements, consistent with Executive Order 13141 (64 Fed. Reg. 63169), dated November 16, 1999, and its relevant guidelines; and

(B) submit a report on those reviews and on the content and operation of consultative mechanisms established pursuant to section 2(c) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate at the time the President submits to Congress a copy of the final legal text of an agreement pursuant to section 6(a)(1)(E).

(2) EMPLOYMENT IMPACT REVIEWS AND REPORTS.—The President shall—

(A) review the impact of future trade agreements on United States employment, including labor markets, modeled after Executive Order 13141 (64 Fed. Reg. 63169) to the extent appropriate in establishing procedures and criteria; and

(B) submit a report on such reviews to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate at the time the President submits to Congress a copy of the final legal text of an agreement pursuant to section 6(a)(1)(E).

(3) REPORT ON LABOR RIGHTS.—The President shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, on a timeframe determined in accordance with section 4(c)(3)(B)(v)—

(A) a meaningful labor rights report of the country, or countries, with respect to which the President is negotiating; and

(B) a description of any provisions that would require changes to the labor laws and labor practices of the United States.

(4) PUBLIC AVAILABILITY.—The President shall make all reports required under this subsection available to the public.

(e) IMPLEMENTATION AND ENFORCEMENT PLAN.—

(1) IN GENERAL.—At the time the President submits to Congress a copy of the final legal text of an agreement pursuant to section 6(a)(1)(E), the President shall also submit to Congress a plan for implementing and enforcing the agreement.

(2) ELEMENTS.—The implementation and enforcement plan required by paragraph (1) shall include the following:

(A) BORDER PERSONNEL REQUIREMENTS.—A description of additional personnel required at border entry points, including a list of additional customs and agricultural inspectors.

(B) AGENCY STAFFING REQUIREMENTS.—A description of additional personnel required by Federal agencies responsible for monitoring and implementing the trade agreement, including personnel required by the Office of the United States Trade Representative, the Department of Commerce, the Department of Agriculture (including additional personnel required to implement sanitary and phytosanitary measures in order to obtain market access for United States exports), the Department of Homeland Security, the Department of the Treasury, and such other agencies as may be necessary.

(C) CUSTOMS INFRASTRUCTURE REQUIREMENTS.—A description of the additional equipment and facilities needed by U.S. Customs and Border Protection.

(D) IMPACT ON STATE AND LOCAL GOVERNMENTS.—A description of the impact the trade agreement will have on State and local governments as a result of increases in trade.

(E) COST ANALYSIS.—An analysis of the costs associated with each of the items listed in subparagraphs (A) through (D).

(3) BUDGET SUBMISSION.—The President shall include a request for the resources necessary to support the plan required by paragraph (1) in the first budget of the President submitted to Congress under section 1105(a) of title 31, United States Code, after the date of the submission of the plan.

(4) PUBLIC AVAILABILITY.—The President shall make the plan required under this subsection available to the public.

(f) OTHER REPORTS.—

(1) REPORT ON PENALTIES.—Not later than one year after the imposition by the United States of a penalty or remedy permitted by a trade agreement to which this Act applies, the President shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the effectiveness of the penalty or remedy applied under United States law in enforcing United States rights under the trade agreement, which shall address whether the penalty or remedy was effective in changing the behavior of the targeted party and whether the penalty or remedy had any adverse impact on parties or interests not party to the dispute.

(2) REPORT ON IMPACT OF TRADE PROMOTION AUTHORITY.—Not later than one year after the date of the enactment of this Act, and not later than 5 years thereafter, the United States International Trade Commission shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the economic impact on the United States of all trade agreements with respect to which Congress has enacted an implementing bill under trade authorities procedures since January 1, 1984.

(3) ENFORCEMENT CONSULTATIONS AND REPORTS.—(A) The United States Trade Representative shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate after acceptance of a petition for review or taking an enforcement action in regard to an obligation under a trade agreement, including a labor or environmental obligation. During such consultations, the United States Trade Representative shall describe the matter, including the basis for such action and the application of any relevant legal obligations.

(B) As part of the report required pursuant to section 163 of the Trade Act of 1974 (19 U.S.C. 2213), the President shall report annually to Congress on enforcement actions taken pursuant to a trade agreement to which the United States is a party, as well as on any public reports issued by Federal agencies on enforcement matters relating to a trade agreement.

(g) ADDITIONAL COORDINATION WITH MEMBERS.—Any Member of the House of Representatives may submit to the Committee on Ways and Means of the House of Representatives and any Member of the Senate may submit to the Committee on Finance of the Senate the views of that Member on any matter relevant to a proposed trade agreement, and the relevant Committee shall receive those views for consideration.

SEC. 6. IMPLEMENTATION OF TRADE AGREEMENTS.

(a) IN GENERAL.—

(1) NOTIFICATION AND SUBMISSION.—Any agreement entered into under section 3(b) shall enter into force with respect to the United States if (and only if)—

(A) the President, at least 90 calendar days before the day on which the President enters into the trade agreement, notifies the House of Representatives and the Senate of the President's intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(B) the President, at least 60 days before the day on which the President enters into the agreement, publishes the text of the agreement on a publicly available Internet website of the Office of the United States Trade Representative;

(C) within 60 days after entering into the agreement, the President submits to Congress a description of those changes to existing laws that the President considers would be required in order to bring the United States into compliance with the agreement;

(D) the President, at least 30 days before submitting to Congress the materials under subparagraph (E), submits to Congress—

(i) a draft statement of any administrative action proposed to implement the agreement; and

(ii) a copy of the final legal text of the agreement;

(E) after entering into the agreement, the President submits to Congress, on a day on which both Houses of Congress are in session, a copy of the final legal text of the agreement, together with—

(i) a draft of an implementing bill described in section 3(b)(3);

(ii) a statement of any administrative action proposed to implement the trade agreement; and

(iii) the supporting information described in paragraph (2)(A);

(F) the implementing bill is enacted into law; and

(G) the President, not later than 30 days before the date on which the agreement enters into force with respect to a party to the agreement, submits written notice to Congress that the President has determined that the party has taken measures necessary to comply with those provisions of the agreement that are to take effect on the date on which the agreement enters into force.

(2) SUPPORTING INFORMATION.—

(A) IN GENERAL.—The supporting information required under paragraph (1)(E)(iii) consists of—

(i) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(ii) a statement—

(I) asserting that the agreement makes progress in achieving the applicable purposes, policies, priorities, and objectives of this Act; and

(II) setting forth the reasons of the President regarding—

(aa) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in subclause (I);

(bb) whether and how the agreement changes provisions of an agreement previously negotiated;

(cc) how the agreement serves the interests of United States commerce; and

(dd) how the implementing bill meets the standards set forth in section 3(b)(3).

(B) PUBLIC AVAILABILITY.—The President shall make the supporting information described in subparagraph (A) available to the public.

(3) RECIPROCAL BENEFITS.—In order to ensure that a foreign country that is not a party to a trade agreement entered into under section 3(b) does not receive benefits under the agreement unless the country is also subject to the obligations under the agreement, the implementing bill submitted with respect to the agreement shall provide that the benefits and obligations under the agreement apply only to the parties to the agreement, if such application is consistent with the terms of the agreement. The implementing bill may also provide that the benefits and obligations under the agreement do not apply uniformly to all parties to the agreement, if such application is consistent with the terms of the agreement.

(4) DISCLOSURE OF COMMITMENTS.—Any agreement or other understanding with a foreign government or governments (whether oral or in writing) that—

(A) relates to a trade agreement with respect to which Congress enacts an implementing bill under trade authorities procedures; and

(B) is not disclosed to Congress before an implementing bill with respect to that agreement is introduced in either House of Congress,

shall not be considered to be part of the agreement approved by Congress and shall have no force and effect under United States law or in any dispute settlement body.

(b) LIMITATIONS ON TRADE AUTHORITIES PROCEDURES.—

(1) FOR LACK OF NOTICE OR CONSULTATIONS.—

(A) IN GENERAL.—The trade authorities procedures shall not apply to any implementing bill submitted with respect to a trade agreement or trade agreements entered into under section 3(b) if during the 60-day period beginning on the date that one House of Congress agrees to a procedural disapproval resolution for lack of notice or consultations with respect to such trade agreement or agreements, the other House separately agrees to a procedural disapproval resolution with respect to such trade agreement or agreements.

(B) PROCEDURAL DISAPPROVAL RESOLUTION.—(i) For purposes of this paragraph, the term "procedural disapproval resolution" means a resolution of

either House of Congress, the sole matter after the resolving clause of which is as follows: "That the President has failed or refused to notify or consult in accordance with the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 on negotiations with respect to _____ and, therefore, the trade authorities procedures under that Act shall not apply to any implementing bill submitted with respect to such trade agreement or agreements.", with the blank space being filled with a description of the trade agreement or agreements with respect to which the President is considered to have failed or refused to notify or consult.

(ii) For purposes of clause (i) and paragraphs (3)(C) and (4)(C), the President has "failed or refused to notify or consult in accordance with the Bipartisan Congressional Trade Priorities and Accountability Act of 2015" on negotiations with respect to a trade agreement or trade agreements if—

(I) the President has failed or refused to consult (as the case may be) in accordance with sections 4 and 5 and this section with respect to the negotiations, agreement, or agreements;

(II) guidelines under section 4 have not been developed or met with respect to the negotiations, agreement, or agreements;

(III) the President has not met with the House Advisory Group on Negotiations or the Senate Advisory Group on Negotiations pursuant to a request made under section 4(c)(4) with respect to the negotiations, agreement, or agreements; or

(IV) the agreement or agreements fail to make progress in achieving the purposes, policies, priorities, and objectives of this Act.

(2) PROCEDURES FOR CONSIDERING RESOLUTIONS.—(A) Procedural disapproval resolutions—

(i) in the House of Representatives—

(I) may be introduced by any Member of the House;

(II) shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules; and

(III) may not be amended by either Committee; and

(ii) in the Senate—

(I) may be introduced by any Member of the Senate;

(II) shall be referred to the Committee on Finance; and

(III) may not be amended.

(B) The provisions of subsections (d) and (e) of section 152 of the Trade Act of 1974 (19 U.S.C. 2192) (relating to the floor consideration of certain resolutions in the House and Senate) apply to a procedural disapproval resolution introduced with respect to a trade agreement if no other procedural disapproval resolution with respect to that trade agreement has previously been reported in that House of Congress by the Committee on Ways and Means or the Committee on Finance, as the case may be, and if no resolution described in clause (ii) of section 5(b)(3)(B) with respect to that trade agreement has been reported in that House of Congress by the Committee on Ways and Means or the Committee on Finance, as the case may be, pursuant to the procedures set forth in clauses (iii) through (vii) of such section.

(C) It is not in order for the House of Representatives to consider any procedural disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules.

(D) It is not in order for the Senate to consider any procedural disapproval resolution not reported by the Committee on Finance.

(3) CONSIDERATION IN SENATE OF CONSULTATION AND COMPLIANCE RESOLUTION TO REMOVE TRADE AUTHORITIES PROCEDURES.—

(A) REPORTING OF RESOLUTION.—If, when the Committee on Finance of the Senate meets on whether to report an implementing bill with respect to a trade agreement or agreements entered into under section 3(b), the committee fails to favorably report the bill, the committee shall report a resolution described in subparagraph (C).

(B) APPLICABILITY OF TRADE AUTHORITIES PROCEDURES.—The trade authorities procedures shall not apply in the Senate to any implementing bill submitted with respect to a trade agreement or agreements described in subparagraph (A) if the Committee on Finance reports a resolution described in subparagraph (C) and such resolution is agreed to by the Senate.

(C) RESOLUTION DESCRIBED.—A resolution described in this subparagraph is a resolution of the Senate originating from the Committee on Finance the sole matter after the resolving clause of which is as follows: "That the President has failed or refused to notify or consult in accordance with the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 on

negotiations with respect to _____ and, therefore, the trade authorities procedures under that Act shall not apply in the Senate to any implementing bill submitted with respect to such trade agreement or agreements.", with the blank space being filled with a description of the trade agreement or agreements described in subparagraph (A).

(D) PROCEDURES.—If the Senate does not agree to a motion to invoke cloture on the motion to proceed to a resolution described in subparagraph (C), the resolution shall be committed to the Committee on Finance.

(4) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES OF A CONSULTATION AND COMPLIANCE RESOLUTION.—

(A) QUALIFICATIONS FOR REPORTING RESOLUTION.—If—

(i) the Committee on Ways and Means of the House of Representatives reports an implementing bill with respect to a trade agreement or agreements entered into under section 3(b) with other than a favorable recommendation; and

(ii) a Member of the House of Representatives has introduced a consultation and compliance resolution on the legislative day following the filing of a report to accompany the implementing bill with other than a favorable recommendation,

then the Committee on Ways and Means shall consider a consultation and compliance resolution pursuant to subparagraph (B).

(B) COMMITTEE CONSIDERATION OF A QUALIFYING RESOLUTION.—(i) Not later than the fourth legislative day after the date of introduction of the resolution, the Committee on Ways and Means shall meet to consider a resolution meeting the qualifications set forth in subparagraph (A).

(ii) After consideration of one such resolution by the Committee on Ways and Means, this subparagraph shall not apply to any other such resolution.

(iii) If the Committee on Ways and Means has not reported the resolution by the sixth legislative day after the date of its introduction, that committee shall be discharged from further consideration of the resolution.

(C) CONSULTATION AND COMPLIANCE RESOLUTION DESCRIBED.—A consultation and compliance resolution—

(i) is a resolution of the House of Representatives, the sole matter after the resolving clause of which is as follows: "That the President has failed or refused to notify or consult in accordance with the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 on negotiations with respect to _____ and, therefore, the trade authorities procedures under that Act shall not apply in the House of Representatives to any implementing bill submitted with respect to such trade agreement or agreements.", with the blank space being filled with a description of the trade agreement or agreements described in subparagraph (A); and

(ii) shall be referred to the Committee on Ways and Means.

(D) APPLICABILITY OF TRADE AUTHORITIES PROCEDURES.—The trade authorities procedures shall not apply in the House of Representatives to any implementing bill submitted with respect to a trade agreement or agreements which are the object of a consultation and compliance resolution if such resolution is adopted by the House.

(5) FOR FAILURE TO MEET OTHER REQUIREMENTS.—Not later than December 15, 2015, the Secretary of Commerce, in consultation with the Secretary of State, the Secretary of the Treasury, the Attorney General, and the United States Trade Representative, shall transmit to Congress a report setting forth the strategy of the executive branch to address concerns of Congress regarding whether dispute settlement panels and the Appellate Body of the World Trade Organization have added to obligations, or diminished rights, of the United States, as described in section 2(b)(15)(C). Trade authorities procedures shall not apply to any implementing bill with respect to an agreement negotiated under the auspices of the World Trade Organization unless the Secretary of Commerce has issued such report by the deadline specified in this paragraph.

(c) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—Subsection (b) of this section, section 3(c), and section 5(b)(3) are enacted by Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such are deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

SEC. 7. TREATMENT OF CERTAIN TRADE AGREEMENTS FOR WHICH NEGOTIATIONS HAVE ALREADY BEGUN.

(a) CERTAIN AGREEMENTS.—Notwithstanding the prenegotiation notification and consultation requirement described in section 5(a), if an agreement to which section 3(b) applies—

(1) is entered into under the auspices of the World Trade Organization,

(2) is entered into with the Trans-Pacific Partnership countries with respect to which notifications have been made in a manner consistent with section 5(a)(1)(A) as of the date of the enactment of this Act,

(3) is entered into with the European Union,

(4) is an agreement with respect to international trade in services entered into with WTO members with respect to which a notification has been made in a manner consistent with section 5(a)(1)(A) as of the date of the enactment of this Act, or

(5) is an agreement with respect to environmental goods entered into with WTO members with respect to which a notification has been made in a manner consistent with section 5(a)(1)(A) as of the date of the enactment of this Act,

and results from negotiations that were commenced before the date of the enactment of this Act, subsection (b) shall apply.

(b) TREATMENT OF AGREEMENTS.—In the case of any agreement to which subsection (a) applies, the applicability of the trade authorities procedures to implementing bills shall be determined without regard to the requirements of section 5(a) (relating only to notice prior to initiating negotiations), and any resolution under paragraph (1)(B), (3)(C), or (4)(C) of section 6(b) shall not be in order on the basis of a failure or refusal to comply with the provisions of section 5(a), if (and only if) the President, as soon as feasible after the date of the enactment of this Act—

(1) notifies Congress of the negotiations described in subsection (a), the specific United States objectives in the negotiations, and whether the President is seeking a new agreement or changes to an existing agreement; and

(2) before and after submission of the notice, consults regarding the negotiations with the committees referred to in section 5(a)(1)(B) and the House and Senate Advisory Groups on Negotiations convened under section 4(c).

SEC. 8. SOVEREIGNTY.

(a) UNITED STATES LAW TO PREVAIL IN EVENT OF CONFLICT.—No provision of any trade agreement entered into under section 3(b), nor the application of any such provision to any person or circumstance, that is inconsistent with any law of the United States, any State of the United States, or any locality of the United States shall have effect.

(b) AMENDMENTS OR MODIFICATIONS OF UNITED STATES LAW.—No provision of any trade agreement entered into under section 3(b) shall prevent the United States, any State of the United States, or any locality of the United States from amending or modifying any law of the United States, that State, or that locality (as the case may be).

(c) DISPUTE SETTLEMENT REPORTS.—Reports, including findings and recommendations, issued by dispute settlement panels convened pursuant to any trade agreement entered into under section 3(b) shall have no binding effect on the law of the United States, the Government of the United States, or the law or government of any State or locality of the United States.

SEC. 9. INTERESTS OF SMALL BUSINESSES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States Trade Representative should facilitate participation by small businesses in the trade negotiation process; and

(2) the functions of the Office of the United States Trade Representative relating to small businesses should continue to be reflected in the title of the Assistant United States Trade Representative assigned the responsibility for small businesses.

(b) CONSIDERATION OF SMALL BUSINESS INTERESTS.—The Assistant United States Trade Representative for Small Business, Market Access, and Industrial Competitiveness shall be responsible for ensuring that the interests of small businesses are considered in all trade negotiations in accordance with the objective described in section 2(a)(8).

SEC. 10. CONFORMING AMENDMENTS; APPLICATION OF CERTAIN PROVISIONS.

(a) CONFORMING AMENDMENTS.—

(1) ADVICE FROM UNITED STATES INTERNATIONAL TRADE COMMISSION.—Section 131 of the Trade Act of 1974 (19 U.S.C. 2151) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking "section 2103(a) or (b) of the Bipartisan Trade Promotion Authority Act of 2002" and inserting "subsection (a) or (b) of section 3 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015"; and

(ii) in paragraph (2), by striking "section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002" and inserting "section 3(b) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015";

(B) in subsection (b), by striking "section 2103(a)(3)(A) of the Bipartisan Trade Promotion Authority Act of 2002" and inserting "section 3(a)(4)(A) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015"; and

(C) in subsection (c), by striking "section 2103 of the Bipartisan Trade Promotion Authority Act of 2002" and inserting "section 3(a) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015".

(2) HEARINGS.—Section 132 of the Trade Act of 1974 (19 U.S.C. 2152) is amended by striking "section 2103 of the Bipartisan Trade Promotion Authority Act of 2002" and inserting "section 3 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015".

(3) PUBLIC HEARINGS.—Section 133(a) of the Trade Act of 1974 (19 U.S.C. 2153(a)) is amended by striking "section 2103 of the Bipartisan Trade Promotion Authority Act of 2002" and inserting "section 3 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015".

(4) PREREQUISITES FOR OFFERS.—Section 134 of the Trade Act of 1974 (19 U.S.C. 2154) is amended by striking "section 2103 of the Bipartisan Trade Promotion Authority Act of 2002" each place it appears and inserting "section 3 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015".

(5) INFORMATION AND ADVICE FROM PRIVATE AND PUBLIC SECTORS.—Section 135 of the Trade Act of 1974 (19 U.S.C. 2155) is amended—

(A) in subsection (a)(1)(A), by striking "section 2103 of the Bipartisan Trade Promotion Authority Act of 2002" and inserting "section 3 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015"; and

(B) in subsection (e)—

(i) in paragraph (1)—

(I) by striking "section 2103 of the Bipartisan Trade Promotion Authority Act of 2002" each place it appears and inserting "section 3 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015"; and

(II) by striking "not later than the date on which the President notifies the Congress under section 2105(a)(1)(A) of the Bipartisan Trade Promotion Authority Act of 2002" and inserting "not later than the date that is 30 days after the date on which the President notifies Congress under section 6(a)(1)(A) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015"; and

(ii) in paragraph (2), by striking "section 2102 of the Bipartisan Trade Promotion Authority Act of 2002" and inserting "section 2 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015".

(6) PROCEDURES RELATING TO IMPLEMENTING BILLS.—Section 151 of the Trade Act of 1974 (19 U.S.C. 2191) is amended—

(A) in subsection (b)(1), in the matter preceding subparagraph (A), by striking "section 2105(a)(1) of the Bipartisan Trade Promotion Authority Act of 2002" and inserting "section 6(a)(1) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015"; and

(B) in subsection (c)(1), by striking "section 2105(a)(1) of the Bipartisan Trade Promotion Authority Act of 2002" and inserting "section 6(a)(1) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015".

(7) TRANSMISSION OF AGREEMENTS TO CONGRESS.—Section 162(a) of the Trade Act of 1974 (19 U.S.C. 2212(a)) is amended by striking "section 2103 of the Bipartisan Trade Promotion Authority Act of 2002" and inserting "section 3 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015".

(b) APPLICATION OF CERTAIN PROVISIONS.—For purposes of applying sections 125, 126, and 127 of the Trade Act of 1974 (19 U.S.C. 2135, 2136, and 2137)—

(1) any trade agreement entered into under section 3 shall be treated as an agreement entered into under section 101 or 102 of the Trade Act of 1974 (19 U.S.C. 2111 or 2112), as appropriate; and

(2) any proclamation or Executive order issued pursuant to a trade agreement entered into under section 3 shall be treated as a proclamation or Executive

order issued pursuant to a trade agreement entered into under section 102 of the Trade Act of 1974 (19 U.S.C. 2112).

SEC. 11. DEFINITIONS.

In this Act:

(1) AGREEMENT ON AGRICULTURE.—The term "Agreement on Agriculture" means the agreement referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

(2) AGREEMENT ON SAFEGUARDS.—The term "Agreement on Safeguards" means the agreement referred to in section 101(d)(13) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(13)).

(3) AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES.—The term "Agreement on Subsidies and Countervailing Measures" means the agreement referred to in section 101(d)(12) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(12)).

(4) ANTIDUMPING AGREEMENT.—The term "Antidumping Agreement" means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(7) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(7)).

(5) APPELLATE BODY.—The term "Appellate Body" means the Appellate Body established under Article 17.1 of the Dispute Settlement Understanding.

(6) COMMON MULTILATERAL ENVIRONMENTAL AGREEMENT.—

(A) IN GENERAL.—The term "common multilateral environmental agreement" means any agreement specified in subparagraph (B) or included under subparagraph (C) to which both the United States and one or more other parties to the negotiations are full parties, including any current or future mutually agreed upon protocols, amendments, annexes, or adjustments to such an agreement.

(B) AGREEMENTS SPECIFIED.—The agreements specified in this subparagraph are the following:

(i) The Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington March 3, 1973 (27 UST 1087; TIAS 8249).

(ii) The Montreal Protocol on Substances that Deplete the Ozone Layer, done at Montreal September 16, 1987.

(iii) The Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, done at London February 17, 1978.

(iv) The Convention on Wetlands of International Importance Especially as Waterfowl Habitat, done at Ramsar February 2, 1971 (TIAS 11084).

(v) The Convention on the Conservation of Antarctic Marine Living Resources, done at Canberra May 20, 1980 (33 UST 3476).

(vi) The International Convention for the Regulation of Whaling, done at Washington December 2, 1946 (62 Stat. 1716).

(vii) The Convention for the Establishment of an Inter-American Tropical Tuna Commission, done at Washington May 31, 1949 (1 UST 230).

(C) ADDITIONAL AGREEMENTS.—Both the United States and one or more other parties to the negotiations may agree to include any other multilateral environmental or conservation agreement to which they are full parties as a common multilateral environmental agreement under this paragraph.

(7) CORE LABOR STANDARDS.—The term "core labor standards" means—

(A) freedom of association;

(B) the effective recognition of the right to collective bargaining;

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

(D) the effective abolition of child labor and a prohibition on the worst forms of child labor; and

(E) the elimination of discrimination in respect of employment and occupation.

(8) DISPUTE SETTLEMENT UNDERSTANDING.—The term "Dispute Settlement Understanding" means the Understanding on Rules and Procedures Governing the Settlement of Disputes referred to in section 101(d)(16) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(16)).

(9) ENABLING CLAUSE.—The term "Enabling Clause" means the Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries (L/4903), adopted November 28, 1979, under GATT 1947 (as defined in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501)).

(10) ENVIRONMENTAL LAWS.—The term "environmental laws", with respect to the laws of the United States, means environmental statutes and regulations enforceable by action of the Federal Government.

(11) GATT 1994.—The term "GATT 1994" has the meaning given that term in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

(12) GENERAL AGREEMENT ON TRADE IN SERVICES.—The term "General Agreement on Trade in Services" means the General Agreement on Trade in Services (referred to in section 101(d)(14) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(14))).

(13) GOVERNMENT PROCUREMENT AGREEMENT.—The term "Government Procurement Agreement" means the Agreement on Government Procurement referred to in section 101(d)(17) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(17)).

(14) ILO.—The term "ILO" means the International Labor Organization.

(15) IMPORT SENSITIVE AGRICULTURAL PRODUCT.—The term "import sensitive agricultural product" means an agricultural product—

(A) with respect to which, as a result of the Uruguay Round Agreements, the rate of duty was the subject of tariff reductions by the United States and, pursuant to such Agreements, was reduced on January 1, 1995, to a rate that was not less than 97.5 percent of the rate of duty that applied to such article on December 31, 1994; or

(B) which was subject to a tariff rate quota on the date of the enactment of this Act.

(16) INFORMATION TECHNOLOGY AGREEMENT.—The term "Information Technology Agreement" means the Ministerial Declaration on Trade in Information Technology Products of the World Trade Organization, agreed to at Singapore December 13, 1996.

(17) INTERNATIONALLY RECOGNIZED CORE LABOR STANDARDS.—The term "internationally recognized core labor standards" means the core labor standards only as stated in the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up (1998).

(18) LABOR LAWS.—The term "labor laws" means the statutes and regulations, or provisions thereof, of a party to the negotiations that are directly related to core labor standards as well as other labor protections for children and minors and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health, and for the United States, includes Federal statutes and regulations addressing those standards, protections, or conditions, but does not include State or local labor laws.

(19) UNITED STATES PERSON.—The term "United States person" means—

(A) a United States citizen;

(B) a partnership, corporation, or other legal entity that is organized under the laws of the United States; and

(C) a partnership, corporation, or other legal entity that is organized under the laws of a foreign country and is controlled by entities described in subparagraph (B) or United States citizens, or both.

(20) URUGUAY ROUND AGREEMENTS.—The term "Uruguay Round Agreements" has the meaning given that term in section 2(7) of the Uruguay Round Agreements Act (19 U.S.C. 3501(7)).

(21) WORLD TRADE ORGANIZATION; WTO.—The terms "World Trade Organization" and "WTO" mean the organization established pursuant to the WTO Agreement.

(22) WTO AGREEMENT.—The term "WTO Agreement" means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

(23) WTO MEMBER.—The term "WTO member" has the meaning given that term in section 2(10) of the Uruguay Round Agreements Act (19 U.S.C. 3501(10)).

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

H.R. 1890, the "Bipartisan Congressional Trade Priorities and Accountability Act of 2015" (TPA), establishes procedures to enhance Congressional authorities in shaping and implementing trade agreements. The legislation establishes Congressional trade negotiating objectives, enhances requirements for consultation requirements and information sharing with Congress before, during,

and after trade negotiations, and provides the rules for Congressional consideration of trade agreements and their implementing bills. The procedures for the consideration of trade agreements, which were first enacted in 1974 and last established in 2002, have expired with respect to agreements entered into after July 1, 2007. Consistent with prior grants of authority, the purpose of this legislation is to preserve the constitutional role and to fulfill the legislative responsibility of Congress with respect to trade agreements. At the same time, the process ensures certain and expeditious action on the results of the negotiations and on the implementing bill, without amendment. To improve accountability, the bill also includes a new mechanism to remove expedited procedures for a trade agreement if, in the judgment of either the House or Senate, that agreement does not meet the requirements of TPA.

H.R. 1890 would put in place procedures for Congressional consideration of legislation to implement trade agreements entered into before July 1, 2018, with the opportunity for an extension to cover agreements entered into before July 1, 2021. These procedures are similar to the expired provisions, with significant modifications to expand and broaden consultation with Congress, improve transparency, strengthen Congressional oversight of Administration action, and establish new and updated negotiating objectives.

B. Background and Need for Legislation

Certain trade agreements cannot enter into force as a matter of U.S. law unless implementing legislation making any changes to U.S. law to implement U.S. rights and obligations under the agreement is enacted into law. Certain procedures for consideration of these implementing bills were first authorized in the Trade Act of 1974. These procedures were first used with respect to the GATT Tokyo Round Agreements, which were approved and implemented in the Trade Agreements Act of 1979. The procedures for the implementation of multilateral trade agreements have not been significantly altered since 1974 but were expanded in 1984 to apply to bilateral agreements. Extended through section 1102(c) of the Omnibus Trade and Competitiveness Act of 1988, and modified to authorize the President to enter into bilateral trade agreements, these procedures were used to implement the Uruguay Round Agreements of the World Trade Organization (WTO) and the North American Free Trade Agreement (NAFTA). That negotiating authority, as extended in 1991 and 1993, applied only with respect to agreements entered into before April 15, 1994. The authorities were extended again in the Trade Act of 2002. That negotiating authority was extended in 2005 and was in place for agreements concluded by July 1, 2007. Eleven agreements were concluded and implemented using those procedures.

These procedures required the President, before entering into any trade agreement, to consult with Congress and to provide Congress advance notice of his intent to enter into an agreement. The legislation contained negotiating objectives providing specific directions to the President for the negotiations. During the course of negotiations, the President was required to consult extensively, and on a regular basis, with Congress. After entering into the agreement, the President was required to submit the draft agreement,

implementing legislation, and a statement of administrative action to Congress. The President also consulted with Congressional committees of jurisdiction on the content of the implementing bill. Amendments to the legislation were not permitted once the bill was introduced; the committee and floor actions consisted of "up or down" votes on the bill as introduced within certain deadlines.

The Committee believes that trade promotion authority has been a highly effective tool in securing a wide range of important, market-opening trade agreements for the United States. Because of these agreements, the Committee believes that the United States has been able to make substantial progress in opening markets, lowering tariffs, and reducing and eliminating non-tariff barriers to trade. These agreements are extremely beneficial in creating much-needed U.S. jobs, stimulating the economy, and raising the standard of living for American families.

Working in consultation with Congress, the Administration is pursuing a robust and ambitious trade negotiating agenda. The United States is negotiating agreements with 11 Asia-Pacific economies through the Trans-Pacific Partnership (TPP), 28 Member countries of the European Union through the Transatlantic Trade and Investment Partnership (T-TIP), 24 other WTO members for a trade in services agreement (TISA), 13 other WTO members for a trade in environmental goods agreement (EGA), and 161 Members of the World Trade Organization. Combined, U.S. negotiations with the Asia-Pacific and the EU would open markets with nearly 1 billion consumers, covering nearly two-thirds of global GDP and 65 percent of global trade. TISA covers about 50 percent of global GDP, as well, and over 70 percent of global services trade. Renewing TPA, which expired in 2007, is necessary to successfully conclude these negotiations and for Congressional consideration of implementing legislation.

In addition, the Committee is concerned that if the United States does not have trade promotion authority, it will be left further behind as its competitors negotiate preferential access in their best interests and set the rules for global trade.

The Committee believes that the only way that the United States can negotiate these beneficial agreements is through the well-proven tool of trade promotion authority because it ensures certain and expeditious consideration of trade legislation while giving Congress a strong role to play during negotiation and implementation of trade agreements. In addition, trade promotion authority gives U.S. trading partners confidence that an agreement agreed to by the United States will not be reopened during the implementing process. Only with this authority in hand is the United States able to demonstrate to its trading partners that it is serious about concluding trade agreements because implementation procedures are in place, thus creating an atmosphere for other countries to put their best offers on the table and make concessions to produce the best agreement for the United States. In addition, the Congressional negotiating objectives strengthen the President's hand in convincing other parties to make concessions necessary for Congressional approval of the agreement. In short, the United States has never been able to conclude a major trade agreement without these authorities.

Accordingly, H.R. 1890 would extend many of the procedures of the 2002 Act to future agreements, while making significant improvements to assure robust and timely consultation with Congress, improve transparency and accountability, and to set forth detailed Congressional objectives in the negotiations. The Committee strongly believes that passage of this legislation is squarely in the national economic and security interest of the United States.

C. LEGISLATIVE HISTORY

H.R. 1890, the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, was introduced on April 17, 2015, by Chairman Paul Ryan, Trade Subcommittee Chairman Pat Tiberi, Rules Committee Chairman Pete Sessions, and Congressman Henry Cuellar and was referred to the Committee on Ways and Means, the Committee on Rules, and the Committee on Budget.

Legislative Hearings

On January 13, 2015, the Committee held a hearing on the state of the U.S. economy and polices that can promote job creation and economic growth. The Committee heard testimony from Martin Feldstein, Douglas Holtz-Eakin, and Simon Johnson, which included discussion about the importance of importance of trade promotion authority and international trade for promoting job creation and economic growth.

On February 3, 2015, the Committee held a hearing on the U.S. trade agenda with Ambassador Michael Froman, United States Trade Representative. The Committee heard testimony about the importance of importance of TPA for U.S. economic growth and job creation.

On April 22, 2015, the Committee held a hearing on expanding American trade with accountability and transparency with Treasury Secretary Jack Lew, Agriculture Secretary Tom Vilsack, and Commerce Secretary Penny Prtizker. The Committee heard testimony on the Administration's support for this legislation and its importance to concluding the strongest possible trade agreements.

On July 18, 2013, the Committee held a hearing on the U.S. trade agenda with Ambassador Michael Froman, the United States Trade Representative. Considerable focus was given during the hearing to the need for TPA legislation and its importance in furthering the U.S. trade agenda.

On April 3, 2014, the Committee held a hearing on the U.S. trade agenda with Ambassador Michael Froman, United States Trade Representative. Among the issues covered was the need for renewal of TPA and its importance for U.S. economic growth and job creation.

Committee Action

The Committee on Ways and Means marked up H.R. 1890, the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, on April 23, 2015, and ordered the bill favorably reported by a roll call vote of 25 yeas to 13 nays (with a quorum being present).

II. EXPLANATION OF THE BILL

SECTION 1: SHORT TITLE

Present law

Section 2101 of the Bipartisan Trade Promotion Authority Act of 2002 ("2002 TPA") sets forth the short title.

Explanation of provision

Section 1 sets forth the short title as the "Bipartisan Congressional Trade Priorities and Accountability Act of 2015."

Reason for change

The Committee believes that the change in short title is necessary to reflect the significant revision and expansion of necessary Congressional consultations and objectives and more accurately reflects the purpose of this Act.

Effective date

The provision is effective upon enactment.

SECTION 2: TRADE NEGOTIATING OBJECTIVES

Present law

Section 2102(a) of 2002 TPA sets forth overall negotiating objectives for concluding trade agreements. These objectives include obtaining more open, equitable, and reciprocal market access; obtaining the reduction or elimination of barriers and other trade-distorting policies and practices; further strengthening the system of international trading disciplines and procedures, including dispute settlement; fostering economic growth and full employment in the U.S. and the global economy; ensuring that trade and environmental policies are mutually supportive and seeking to protect and preserve the environment and enhance the international means of doing so, while optimizing the use of the world's resources; and to promote respect for worker rights and the rights of children consistent with International Labor Organization core labor standards, as defined in the bill.

Section 2102(b) of 2002 TPA sets forth the following principal trade negotiating objectives: trade barriers and distortions; trade in services; foreign investment; intellectual property; transparency, anti-corruption; improvement of the WTO and multilateral trade agreements; regulatory practices; electronic commerce; reciprocal trade in agriculture; labor and the environment; dispute settlement and enforcement; WTO extended negotiations; trade remedy laws; border taxes; textile negotiations; and worst forms of child labor.

Section 2102(c) of 2002 TPA sets forth promotion of certain priorities, including: greater cooperation between the WTO and ILO; establishment of certain consultative mechanisms related to labor and the environment; conduct of environmental reviews of future trade and investment agreements; review the impact of trade agreements on U.S. employment; consultations regarding labor; a meaningful labor rights report; promote consideration of multilateral environmental agreements; a report on the imposition of a penalty or remedy by the united states permitted by a trade agreement and the effectiveness; and addressing currency issues.

Explanation of provision

Subsection 2(a) establishes overall trade negotiating objectives of the United States for trade agreements, including: obtaining open, equitable and reciprocal market access for U.S. goods and services; obtaining the reduction or elimination of barriers and distortions to trade and investment; further strengthening international trade and investment disciplines, including dispute settlement; fostering economic growth, raising living standards, enhancing U.S. competitiveness, promoting full U.S. employment, and enhancing the global economy; ensuring that trade and environmental policies are mutually supportive; promoting respect for worker rights; seeking to ensure that environmental and labor laws are not weakened as an encouragement for trade; ensuring that trade agreements afford small businesses equal access to international markets and reducing or eliminating trade and investment barriers that disproportionately impact small businesses; promoting ratification and full compliance with ILO Convention No. 182 regarding elimination of the worst forms of child labor; ensuring that trade agreements reflect and facilitate the interrelated, multi-sectoral nature of trade and investment; recognizing the significance of the Internet as a global trading platform; and taking into account other legitimate domestic objectives including protection of legitimate health or safety, essential security, and consumer interests.

Subsection 2(b) establishes the principal trade negotiating objectives of the United States for trade agreements.

(1) *Trade in Goods:* The principal negotiating objectives for trade in goods, set out in subparagraph 2(b)(1), are to expand opportunities for U.S. exports by obtaining fairer and more open conditions of trade, including through utilization of global value chains; to reduce or eliminate tariff and nontariff barriers that decrease market opportunities for U.S. goods; and to obtain reciprocal tariff and non-tariff barrier elimination agreements.

(2) *Trade in Services:* Subparagraph 2(b)(2) sets out as the principal negotiating objective for trade in services to expand opportunities for U.S. services and obtain fairer and more open conditions of trade, including through utilization of global value chains, by reducing or eliminating regulatory and other barriers that deny national treatment or unreasonably restrict the operations of service suppliers. This section also encourages the pursuit of these objectives through all means, including through a plurilateral agreement with countries that are willing and able to undertake high standard services commitments for both existing and new services.

(3) *Trade in Agriculture:* The principal negotiating objective with respect to agriculture, set forth in subparagraph 2(b)(3), includes the directive by Congress to obtain competitive market access opportunities for U.S. agricultural exports substantially equivalent to opportunities afforded foreign exports in U.S. markets, including by securing enforceable rules on sanitary and phytosanitary measures (SPS) with respect to transparency, regulatory coherence, and adherence to international standards and science-based risk assessments; reducing or eliminating tariffs, while providing adjustment periods for U.S. import-sensitive products; and reducing or eliminating market distorting practices, such as subsidies, state trading enterprises, and unjustified commercial requirements. Negotiators are directed to ensure that trading partners are adhering to exist-

ing commitments regarding trade in agriculture and do not improperly use their systems for protecting or recognizing geographical indications to undermine market access for U.S. products.

(4) *Foreign Investment:* Subparagraph 2(b)(4) sets out the principal negotiating objectives with respect to foreign investment, which include directives by Congress to reduce barriers to foreign investment, ensure that foreign investors in the United States are not accorded greater rights than U.S. investors in the United States, and secure for U.S. investors rights comparable to those available in the United States, including by reducing or eliminating exceptions to national treatment, freeing transfer of funds, reducing or eliminating forced technology transfers and other unreasonable barriers to the establishment and operation of investments, establishing standards on and compensation for expropriation consistent with U.S. law, establishing standards on fair and equitable treatment consistent with U.S. law, and providing meaningful procedures for resolving disputes, including improved mechanisms for resolving disputes between an investor and a government that ensure the fullest measure of transparency.

(5) *Intellectual Property:* Subparagraph 2(b)(5) sets out the principal negotiating objectives with respect to intellectual property, which include directives by Congress to further promote adequate and effective protection for intellectual property rights, including through full implementation of the WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPS); by ensuring that provisions of any trade agreement governing intellectual property rights reflect a standard of protection similar to that found in U.S. law; by providing strong protection for emerging technologies and methods of transmitting and distributing intellectual property, including in a manner that facilitates legitimate digital trade; by eliminating discrimination regarding intellectual property rights; by ensuring that rights holders have the legal and technological means to control the use of their works through the Internet and prevent the unauthorized use of their work; by providing strong enforcement of intellectual property rights; and by preventing or eliminating government involvement in the violation of intellectual property rights, including through cybertheft and piracy. The negotiating objectives also include securing fair, equitable, and nondiscriminatory market access opportunities for U.S. persons that rely upon intellectual property protection, as well as respecting the 2001 Declaration on the TRIPS Agreement and Public Health and ensuring that trade agreements foster innovation and promote access to medicines.

(6) *Digital Trade in Goods and Services and Cross-Border Data Flows:* Subparagraph 2(b)(6) sets out the principal negotiating objectives for digital trade in goods and services and cross-border data flows, including the directive of Congress to ensure that all trade commitments apply to digital trade and cross-border data flows; to ensure that electronically delivered goods and services are treated no less favorably than products delivered in physical form and classified so as to ensure the most liberal trade treatment possible; and to ensure that governments not impede digital trade, restrict cross-border data flows, or require local storage or processing of data, imposing domestic regulations only when required by legitimate policy objectives and in a manner that is the least restric-

tive on trade, is non-discriminatory and transparent, and promotes an open market environment. The provision also directs that the World Trade Organization moratorium on duties on electronic transmissions be extended.

(7) *Regulatory Practices:* The principal negotiating objectives with regard to regulatory or other practices of foreign governments used to reduce market access for U.S. goods, services, and investments are: to seek increased transparency and opportunity for participation in the development of regulations; to require proposed regulations be based on sound science, cost benefit analysis, risk assessment, or other objective evidence; to improve regulatory practices and promote increased regulatory coherence; to seek greater openness, transparency, and convergence of standards-development processes; to promote regulatory compatibility through harmonization, equivalence, or mutual recognition and to encourage the use of global and interoperable standards; to achieve the elimination of price controls and reference pricing which deny full market access for United States products; to ensure that government regulatory reimbursement regimes are transparent, provide procedural fairness, are non-discriminatory, and provide full market access for U.S. products; to ensure that government collection of undisclosed proprietary information is limited to that necessary to satisfy a legitimate and justifiable regulatory interest and that such information is protected against disclosure.

(8) *State-Owned and State-Controlled Enterprises:* Subparagraph 2(b)(8) sets out the principal negotiating objective regarding state-owned enterprises, which the directive by Congress to seek commitments that eliminate or prevent trade distortions and unfair competition favoring state-owned enterprises to the extent of their commercial engagement and ensure that such engagement is based solely on commercial considerations.

(9) *Localization Barriers to Trade:* The principal negotiating objective regarding localization barriers to trade, set out in subparagraph 2(b)(9), is to eliminate and prevent measures that require U.S. producers and service provides to locate facilities, intellectual property, or other assets in a country as a market access or investment condition, including indigenous innovation measures.

(10) *Labor and the Environment:* The principal negotiating objectives with respect to labor and the environment, set forth in subparagraph 2(b)(10), include ensuring that a party to a trade agreement with the United States adopts and maintains measures implementing internationally-recognized core labor standards and its obligations under common multilateral environmental agreements; does not waive or derogate from its statutes or regulations implementing internationally recognized core labor standards, in a manner affecting trade or investment between the United States and that party, where waiver or derogation would be inconsistent with one or more such standards; does not waive or derogate from its environmental laws in a manner that weakens the protections afforded in those laws and in a manner affecting trade or investment between the United States and that party, except as provided in its laws and provided not inconsistent with its obligations under common multilateral environmental agreements; and does not fail to effectively enforce its environmental or labor laws through a sustained or recurring course of action or inaction, in a manner affect-

ing trade or investment between the United States and that party. The principal negotiating objectives also include: recognizing that with respect to the environment, parties retain the right to exercise prosecutorial discretion and to make decisions regarding the allocation of enforcement resources; recognizing with respect to labor, distribution of enforcement resources are not a reason for not complying with a party's labor obligations; strengthening the labor and environment capacity of U.S. trading partners; reducing or eliminating government practices or policies that unduly threaten sustainable development; seeking improved market access for U.S. environmental technologies, goods, and services; ensuring that labor, environmental, health, or safety policies and practices of the parties to trade agreements with the United States do not arbitrarily or unjustifiably discriminate against U.S. exports or serve as disguised barriers to trade; ensuring that enforceable labor and environmental obligations are subject to the same dispute settlement procedures and remedies as other enforceable obligations; and ensuring that no other party is empowered by a trade agreement to undertake labor or environmental law enforcement activities in the territory of the United States.

(11) *Currency:* The principal negotiating objective regarding currency practices, set out in subparagraph 2(b)(11), is that parties to a trade agreement with the United States avoid manipulating exchange rates in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other parties to the agreement, such as through cooperative mechanisms, enforceable rules, reporting, monitoring, transparency, or other means, as appropriate.

(12) *WTO and Multilateral Trade Agreements:* The principal negotiating objectives regarding the World Trade Organization, set out in subparagraph 2(b)(12), are to achieve full implementation and extend the coverage of WTO multilateral and plurilateral agreements, including expansion and enhancement of the Information Technology Agreement, the Government Procurement Agreement, and other WTO plurilateral agreements; to expand competitive market opportunities for U.S. exports and to obtain fairer and more open conditions of trade, including through utilization of global value chains; to seek new agreements, including an agreement on trade facilitation; to ensure that regional trade agreements comply with WTO disciplines; to enhance compliance through active participation in the bodies of the WTO; and to encourage greater cooperation between the WTO and other international organizations.

(13) *Trade Institution Transparency:* The principal negotiating objective with respect to trade institution transparency, set forth in subparagraph 2(b)(13), is to seek improved transparency in the WTO, in institutions established through other trade agreements, and in other international trade fora.

(14) *Anti-Corruption:* The principal negotiating objectives with respect to anti-corruption, set forth in subparagraph 2(b)(14), are to obtain high standards and effective domestic enforcement mechanisms that prohibit attempts to use money or other things of value to influence acts, decisions, or omissions of foreign governments; to level the playing field for U.S. actors in trade and invest-

ment; and to seek commitments to support anti-corruption and anti-bribery initiatives in international fora.

(15) *Dispute Settlement and Enforcement:* The principal negotiating objectives with respect to dispute settlement, set forth in subparagraph 2(b)(15), include seeking provisions that provide for resolution of disputes in an effective, transparent, and equitable manner; increase compliance with dispute settlement procedures; and seek adherence by WTO panels and the Appellate Body to their respective mandates and to apply the WTO Agreement as written.

(16) *Trade Remedy Laws:* The principal negotiating objective with respect to trade remedies, set forth in subparagraph 2(b)(16), is to preserve the ability to enforce rigorously U.S. trade laws, including antidumping, countervailing duty, and safeguard laws; to avoid agreements that lessen the effectiveness of unfair trade disciplines or safeguards; and to address and remedy market distortions that lead to dumping and subsidization.

(17) *Border Taxes:* The principal negotiating objective regarding border taxes, set forth in subparagraph 2(b)(17), is to obtain a revision of the WTO rules with respect to the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct taxes for revenue rather than indirect taxes.

(18) *Textile Negotiations:* The principal negotiating objectives with respect to trade in textiles and apparel, set forth in subparagraph 2(b)(18), are to obtain opportunities for U.S. exports of textiles and apparel in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in U.S. markets and to achieve fairer and more open conditions of trade in textiles and apparel.

(19) *Commercial Partnerships:* The principal negotiating objective set forth in subparagraph 2(b)(19) directs the Administration to seek to address boycotts, divestments, and sanctions against Israel in the TTIP negotiations.

(20) *Good Governance, Transparency, the Effective Operation of Legal Regimes, and the Rule of Law of Trading Partners:* The principal negotiating objective set forth in subparagraph 2(b)(20) directs the Administration to ensure implementation of trade commitments and obligations by strengthening good governance, transparency, the effective operation of legal regimes and the rule of law of trading partners of the United States through capacity building and other appropriate means, which are important parts of the broader effort to create more open democratic societies and to promote respect for internationally recognized human rights.

Section 2(c) sets out other priorities, including provisions to strengthen the capacity of U.S. trading partners to carry out obligations under trade agreements; to provide technical assistance if needed; to establish consultative mechanisms to develop and implement standards for the protection of the environment and human health based on sound science; to promote consideration of multilateral environmental agreements and to consult regarding the consistency of any trade measures of such agreements with WTO obligations; and an annual report on capacity-building activities undertaken in connection with trade negotiations and trade agreements.

Reason for change

Section 2(a): The Committee believes that the overall negotiating objectives emphasize the need to open markets and strengthen the international trading system while ensuring that trade and environment policies are mutually supportive and promoting respect for core labor rights, all with the goal of fostering economic growth and full employment in the United States.

In the list of overall negotiating objectives in H.R. 1890, the Committee intends to update and broaden objectives from 2002 TPA with new and improved provisions. In subsections 2(a)(2), (3), and (8), H.R. 1890 includes consideration of investment issues as well as trade issues. The additions to section 2(a)(8) reflect the view of this Committee that trade and investment barriers that disproportionately impact small businesses include inefficient customs administration because small businesses often lack the resources necessary to navigate unnecessarily opaque or inefficient customs requirements. Accordingly, this Committee believes that a robust trade facilitation agenda will reduce or eliminate some of these burdens.

In subsection (2)(a)(4), H.R. 1890 directs the Administration to "enhance U.S. competitiveness," by which the Committee expects a comprehensive approach to improving the ability of U.S. manufacturers, service providers, and farmers to compete in the global economy, including by using trade agreements to promote U.S. participation in global value chains, as addressed elsewhere in the legislation.

Subsection (2)(a)(10) is a new objective, directing the Administration to address market access barriers in a comprehensive manner and seek commitments in trade agreements that address these issues across chapters. This objective is one of several new provisions that address the ability of U.S. firms to participate in global value chains and ensure that trade agreements reflect the increasingly interrelated and multi-sectoral nature of trade and investment activity.

Subsection 2(a)(10) demonstrates the view of this Committee that trade agreements should reflect the actual nature of trade and investment activity so as to facilitate greater commercial gains—in practice—for the United States, and that the U.S. negotiating position should give priority to identifying and addressing these trade and investment realities. In particular, this Committee believes that trade agreements should both reflect and facilitate the interrelated, multi-sectoral nature of trade and investment activity in which a typical U.S. export requires goods and services from various sectors, integrated into a common global value chain. In addition, U.S. service providers increasingly operate across all modes of service provision, such that a single services export may be dependent on both establishment rights and the various forms of cross-border market access. Trade and investment are also increasingly interdependent, with U.S. exporters requiring a global presence to market and service U.S. exports abroad. As a result of these interrelations, a trade agreement could succeed in eliminating all barriers in one sector but nonetheless fail to produce adequate commercial gains for the United States in that sector because of remaining barriers in an interrelated sector. The same holds for interrelated modes of trade and investment. Accordingly, this objec-

tive directs the Administration to develop creative and integrated solutions through trade agreements.

The Committee also notes that global value chains have developed, in part, as a result of U.S. free trade agreements. The creation of new U.S. trade agreements should seek to expand upon those global value chains and take into consideration any negative impact that new agreements might have on global value chains that have developed as the result of previous U.S. trade agreements.

Subsection 2(a)(12) is a new provision, directing the Administration to recognize the growing significance of the Internet as a trading platform in international commerce, benefitting the U.S. and global economy. As a result, this legislation provides numerous related provisions that facilitate continued growth of digital trade, which includes both trade in digital goods and services and Internet-enabled trade in goods and services.

Subsection 2(a)(13) appeared in 2002 TPA in subsection 2102(c)(6) in the section on "Promotion of Certain Priorities." The inclusion of this provision as an overall negotiating objective in 2015 TPA is meant to ensure that the United States will seek to maintain its high levels of protection when addressing regulatory issues in trade agreements and to make clear that efforts should not add to or detract from that level of protection.

Section 2(b): Principal Trade Negotiating Objectives.

(1) *Trade in Goods:* The first negotiating objective covers any tariff or non-tariff barrier as well as any policy or practice that is directly related to trade, regardless of whether the barrier is imposed at the foreign border or at some other point, such as internal barriers. Moreover, H.R. 1890 addresses policies and practices, not merely a law "on its face,", which includes a policy or practice that has the *de facto* effect of impeding U.S. imports or exports, as well as *de jure* barriers. In addition, the concept "policy or practice" covers barriers imposed under, for example, a regulatory, administrative, adjudicatory, or investigatory exercise of any level of foreign government authority, and is not limited to statutory barriers. Additional guidance on these measures is provided elsewhere in this section.

New language in this provision directs the Administration to take into account and encourage the utilization of global value chains that benefit the United States. The Committee intends that this goal should be accomplished through expanded provisions on trade facilitation in trade agreements, quick implementation of a trade facilitation agreement at the World Trade Organization, and expanded multilateral efforts. A successful example of the utilization of global value chains is the development of a hemispheric textile and apparel industry that resulted from the Dominican Republic-Central America Free Trade Agreement with the United States, which created markets in Central America for U.S. design, research and development, and inputs.

In section 2(b)(1)(B), the Committee intends that the Administration continue to seek the elimination of duties on a reciprocal basis for products covered in section 111(b) of the Uruguay Round Agreements Act, as described in page 45 of the Statement of Administrative Action accompanying that Act. Although the United States was successful in obtaining the reciprocal elimination of duties for

many products contained in that list as part of the Information Technology Agreement (ITA) negotiated under the auspices of the World Trade Organization, there are many products on the list for which zero-for-zero agreements have not been reached. The Committee notes that one area of great promise is trade in environmental goods. The Committee also notes that the Administration should seek to expand product coverage of existing agreements. It is the Committee's intention that the Administration pay particular attention to the elimination of tariffs on information technology products through the expansion of the ITA, which would result in substantial benefits to U.S. industry and its workers. For many of these products, U.S. producers remain at a significant competitive disadvantage while foreign suppliers are able to expand capacity behind high tariff walls.

In other sectors, tariff inequities are aggravated by tariff escalation, which occur when a U.S. trading partner establishes low or zero tariffs for raw materials but maintains relatively high tariffs for processed products, thus disadvantaging U.S. exporters of value-added products. The Committee intends that the Administration continue to pursue ending such practices for the sectors covered by the proclamation authority provided in section 111(b) of the Uruguay Round Agreements Act.

The Committee emphasizes that the overall negotiating objectives to obtain more open, equitable, and reciprocal market access and to reduce distortions that decrease market opportunities for United States exports and otherwise distort trade are increasingly important for the domestic textile and apparel industry. Pursuit of opportunities through trade agreements to utilize global value chains in this sector also requires close consultation with Congress and affected parties.

(2) *Trade in Services:* Section 2(b)(2) reflects the view of this Committee that trade agreements should be structured to expand U.S. services trade substantially. Cross-border services exports now exceed $500 billion annually, generating large, consistent trade surpluses in the sector. Yet cross-border U.S. services exports continue to comprise less than 15 percent of total U.S. exports, and the United States exports a much lower percentage of its overall services production than of its goods production. This Committee intends the parallelism between the objectives regarding trade in services and the objectives regarding trade in goods to signal the importance of expanding U.S. services exports as well, in the manner described in the bill.

As in the objectives regarding trade in goods, sections 2(b)(2) reflects the view of this Committee that: (1) non-tariff barriers, including regulatory barriers, are increasingly responsible for the distorted playing field that U.S. exporters face in the global market; and (2) trade agreements must seek to reduce or eliminate such barriers. In bilateral and multilateral trade agreements, the Committee believes it is important to: (1) achieve maximum liberalization of trade in all modes of supply, including cross border supply of services and movement of natural persons, across the widest possible range of services; (2) provide rights of establishment with majority ownership and national treatment for companies operating in foreign markets; (3) allow investors to establish in whatever corporate form is most appropriate to their business objectives; (4)

grandfather existing liberalization commitments; (5) create a free and open commercial environment for the development of digital trade; (6) ensure that market access commitments apply no matter what technology is used to deliver the service; (7) promote domestic regulatory reform, with the objective of committing governments to avoid discrimination against U.S. service suppliers in their current and future regulations; (8) promote transparency of regulatory processes, including rule-making, granting of licenses, setting of standards, and judicial and arbitral proceedings; (9) challenge both the desirability and the feasibility of a services safeguard regime, especially in light of the impact of such a provision on the climate for foreign direct investment; and (10) explicitly acknowledge the importance of maintaining free flows of financial and other information that is necessary for the operation of global business.

Given the breadth of U.S. services exports, the modes by which they are provided, and the barriers that these exports face in foreign markets, many provisions of the bill beyond the objectives regarding trade in services are relevant to U.S. services exporters and should be recognized by U.S. trade negotiators as interrelated, including objectives regarding foreign investment, intellectual property, digital trade in goods and services and cross-border data flows, regulatory practices, state-owned and state-controlled enterprises, localization barriers to trade, and others, as well as the numerous provisions of the bill that make trade facilitation a priority. This Committee intends the overall negotiating objective described at section 2(a)(10) to be applied to the services sector in a manner that ensures that trade agreements do not focus artificially on a mode or subsector in isolation in a manner that diminishes the commercial value of obligations agreed to with regard to that mode or subsector due to unaddressed barriers to services exports within an interrelated mode or subsector.

U.S. services account for a significant percentage of the value-added in U.S. goods and agriculture exports, as well as in many foreign exports around the globe, thereby producing well-paid jobs in the United States. The Committee intends the reference in sections 2(b)(2) to "utilization of global value chains" to include the importance of continuing to expand opportunities for U.S. services providers to participate in global value chains for U.S. and foreign goods and services exports. As a result of their role in global value chains, U.S. services exports generate economic growth throughout the U.S. economy, including with regard to U.S. manufacturing, agriculture, and extractive industry exports. Both U.S. goods and services exporters depend on an extensive set of services to design, produce, finance, insure, sell, transport, and service their exports.

Section 2(b)(2)(B) reflects this Committee's strong commitment to a robust bilateral, regional, plurilateral, and multilateral services trade agenda, including a high-standard Trade in Services Agreement (TISA) that is open to any WTO country that is willing and able to meet that high standard—but only such countries. The Committee has serious unresolved concerns about whether, at this time, China is willing and able to meet the high standard of TISA. The Committee believes that, with regard to those WTO members that join TISA, the liberalization of services in TISA must substantially exceed what has already been achieved in the WTO General Agreement on Trade in Services (GATS) and must reflect the many

developments in the services sector and in bilateral services trade obligations since the GATS was concluded.

This Committee expects trade agreements, including TISA, to extend both to existing services and to new services that do not yet exist at the time that the agreement enters into force. As a result, this Committee believes that a "negative list" approach is superior to the "positive list" approach of the GATS in accomplishing the liberalization across a wide range of sectors that these objectives on trade in services anticipate. In other words, the Committee believes that U.S. negotiators should push countries to schedule complete liberalization with a list of exceptions only where necessary.

This Committee expects the services liberalization that TISA generates to feed back into greater momentum for services liberalization at the WTO. At such time as productive multilateral services negotiations at the WTO are possible, the Committee believes the negotiations must be effective in increasing substantive liberalization commitments across the wide range of services in which the United States is competitive. In addition to the "request and offer" approach pursued in the Doha Round, which can be cumbersome and slow for services, the Committee supports the use of other more efficient negotiating techniques and strategies. The Committee urges negotiators to continue exploring the development of negotiating techniques such as model schedules, horizontal approaches, and clusters.

(3) *Trade in Agriculture:* With respect to the negotiating objective relating to reciprocal trade in agriculture, the Committee intends that the United States obtain a level playing field throughout the world for U.S. exporters seeking market access abroad. The Committee recognizes that trade in agriculture is a pivotal issue in all trade negotiations, whether bilateral, regional, or multilateral. Thus, the Committee has set forth specific objectives, recognizing the need to open markets for U.S. agricultural exports, while taking into account the import-sensitive portion of the U.S. agriculture sector.

The Committee intends for U.S. negotiators to seek to accomplish the objectives set forth in section 2(b)(3). Reducing or eliminating foreign tariffs and subsidies continue to be critical objectives, but the Committee notes that other countries' unjustified sanitary and phytosanitary measures that ignore science and international standards are a growing barrier to U.S. agricultural exports. The Committee intends that U.S. negotiators seek enforceable robust rules on sanitary measures, including that such measures be science-based or otherwise comply with international standards and that they be established and implemented in a transparent, risk-based manner. In addition, negotiators are directed to eliminate practices that decrease U.S. market access or distort U.S. or foreign markets, including the monopoly status of state trading enterprises; unjustified trade restrictions or commercial requirements affecting new technologies, including biotechnology; other unjustified barriers to trade; and trade-restrictive rules in the administration of tariff rate quotas. The Committee also believes that U.S. trade negotiators should work to preserve the right of the United States to use agricultural export credit and market development programs, as well as bona fide food aid, and to establish a common base year for the Aggregate Measure of Support.

With regard to biotechnology, the Committee notes that foreign sanitary and phytosanitary barriers that are not based on science and unpredictable foreign regulatory approval systems have significantly impeded market access for U.S. exports. These restrictions—both regulatory and non-regulatory—prevent U.S. biotech products and U.S. crops grown with biotech seeds from reaching foreign markets. These restrictions include lengthy approval processes, including in some cases delays in beginning the approval process until country of origin review processes have been completed. These delays, particularly in important markets like Europe and China, mean that U.S. farmers are reluctant to plant seeds with new biotech traits. These delays appear to be based on considerations other than sound science. The Committee also notes concern with recent proposals that would make it easier for EU Member States to block the importation or cultivation of biotech products. This unpredictable environment results in delays in the adoption of innovative products both in overseas markets and in the United States.

The Committee intends for several principal negotiating objectives in H.R. 1890 are relevant to address foreign regulatory approval processes that are being used as a trade barrier to new agriculture technologies. In particular, the Committee references the objectives in Section 2(b)(3)(A); Sections 2(b)(3)(I)(ii)–(iv); Section 2(b)(5)(A)(iii); Section 2(b)(5)(B); and Section 2(b)(7)(A)–(E), and Section 2(b)(7)(H), among others.

The Committee strongly believes that no trade agreement shall exclude any specific agricultural product from the agreement's obligations or provide different or unequal treatment to that agricultural product under the agreement's obligations. In addition, no trade agreement shall provide "safe harbors" or other similar provisions to exclude or limit the applicability of any of the agreement's obligations to provide nondiscriminatory and transparent regulatory treatment and regulatory due process with respect to any specific agriculture product or to restrict or deny access to dispute settlement. The Committee believes that such exclusions or discriminatory treatment are unnecessary because the negotiating objectives in this bill provide ample authority for countries to regulate to protect human, animal, or plant health in a manner consistent with their international obligations.

The Committee recognizes that in order for the U.S. agricultural sector to compete on a level global playing field, the U.S. Trade Representative must seek disciplines on domestic support polices abroad. These disciplines will help ensure that U.S. producers face an international trade environment that is based upon world market prices.

The Committee believes that USTR should recognize the import sensitivity of certain agriculture products, for example by seeking reasonable adjustment periods for these products. The Committee also believes that USTR should seek improved import relief mechanisms that recognize the unique characteristics of perishable and cyclical agriculture.

The Committee directs USTR to take into account during trade negotiations whether a trading partner has failed to adhere to existing agreements, and whether trade in a specific product is subject to market distortions resulting from the failure of a major pro-

ducing country to comply with its trade agreements with the United States.

The Committee intends that the Administration seek an end to unjustified restrictions that affect new technologies, such as labeling when used as an unjustified restriction.

Finally, the Committee notes with alarm that the improper use by other countries of their systems for protecting and recognizing geographical indications, including failing to ensure transparency and procedural fairness and protecting generic terms, is becoming a significant market access barrier for U.S. agricultural exports. The Committee notes that its concern includes expansion of geographical indications to cover terms that either never had or no longer have any geographical significance, including terms of a descriptive or generic nature. The Committee is greatly concerned about such practices, particularly in the European Union and through the EU's trade agreements, and intends that the Administration eliminate or prevent them.

(4) *Foreign Investment:* The foreign investment negotiating objective from the 2002 law continues to strike the appropriate balance with respect to obtaining investment protections for U.S. investors. Accordingly, the objective is unchanged in 2015 TPA, and U.S. law and the protections that it accords to investors continue to reflect this Committee's intent for trade agreements. U.S. investors continue to face unfair treatment by many countries that do not accord appropriate levels of protection, whether in law or in practice. This is the case both for U.S. investors that are already established in another country and for those that are seeking to establish, so trade agreements must include both pre-establishment and post-establishment protections.

U.S. companies investing abroad do so to boost U.S. exports and enhance U.S. competitiveness by getting closer to global markets, acquiring new technologies, forming strategic alliances, and integrating their global value chains. Foreign investment is increasingly crucial to the ability of U.S. companies to export, and to the international competitiveness of U.S. companies. The Committee believes that, because trade and investment flows are interdependent, rules protecting United States investment abroad must be rigorous and enforceable.

The United States has long been the champion of international investment rules because U.S. investors have more capital at risk than investors from any other country, and, thus, have the most to gain from effective mechanisms for enforcing investor protections. Foreign investors are afforded strong protections through the U.S. Constitution, U.S. laws, and the U.S. court system, with or without an investment agreement. In contrast, U.S. investors abroad are often consigned to foreign laws that may not reflect U.S. or international legal standards and local courts that may be corrupt or do not provide impartial adjudication.

Therefore, the Committee intends U.S. negotiators to continue to fight for the recognition of the international rule of law and respect for international dispute resolution bodies. Future trade agreements should guarantee the free movement of capital, prohibit performance requirements such as local content and export performance requirements, and include, in bilateral and regional agreements, a mechanism to allow investors to arbitrate investment dis-

putes with host governments and obtain relief for damages resulting from violations of the agreement. The Committee emphasizes that these rights should be available to all sectors of the economy.

The Committee recognizes that the investor-state dispute settlement mechanism is a valuable component of investment agreements in order to allow U.S. investors access to the rule of law and procedures that would be available in the United States and acknowledges that the improvements and safeguards identified continue to be important. Specifically, the Committee intends U.S. negotiators to continue to: (1) seek mechanisms to eliminate frivolous claims; (2) ensure the efficient selection of arbitrators and the expeditious disposition of claims and procedures; and (3) increase transparency in investment disputes by, for example, ensuring that briefs and arbitration proceedings are open to public view and that tribunals are able to accept *amicus* submissions from interested members of the public who wish to express their views on issues before the tribunals.

(5) *Intellectual Property:* Piracy and counterfeiting rates in much of the world remain alarmingly high. The rapid globalization of the world economy in the Internet age means that piracy, counterfeiting, and other intellectual property rights violations are, to an increasing extent, global problems. U.S. industries based on copyright, patent, trademark, and other forms of intellectual property rights are among the fastest growing and most productive of all sectors of the U.S. economy. To enable these export-oriented industries to prosper, it is essential that the United States work together with governments throughout the world to prevent, punish, and ultimately deter these violations.

Section 2(b)(5)(A)(vi) reflects the view of this Committee that the involvement of foreign governments in the violation of U.S. intellectual property rights, including piracy and cyber theft, is an increasing impediment to a level playing field for U.S. trade and investment, which requires new provisions in trade agreements to prohibit such governmental action.

This Committee strongly believes that the previously agreed-to obligations regarding protection and enforcement embodied in the WTO Trade-Related Intellectual Property Rights (TRIPS) Agreement must be effectively, fully, and immediately implemented. The enforcement obligations of the TRIPS Agreement are particularly important. Many countries continue to enforce intellectual property rights inadequately, as described in the annual Special 301 Report issued by the Office of the United States Trade Representative. Without effective enforcement, the full benefits of the TRIPS Agreement cannot be realized. Achieving full implementation of TRIPS should be a top priority of U.S. Executive Branch agencies charged with trade policy responsibilities.

The Committee has updated section 2(b)(5)(A)(ii) of the bill to emphasize the critical importance of including in U.S. trade agreements IP provisions that facilitate legitimate digital trade. In particular, this section reflects the view of the Committee that U.S. trade agreements should contain copyright provisions that provide adequate and effective protection for U.S. right holders as well as foster an appropriate balance in copyright systems, inter alia by means of limitations and exceptions consistent with the internationally recognized 3-step test.

Section 2(b)(5)(A)(ii) reflects the view of this Committee that U.S. objectives regarding intellectual property are advanced through strong protection for technologies and methods of transmitting and distributing products embodying intellectual property, including in a manner that facilitates legitimate digital trade, whether those technologies and methods have already emerged or are yet to be created when a trade agreement enters into force. This view is consistent with the objective of combatting piracy and counterfeiting.

Another important objective is to ensure that standards of protection and enforcement keep pace with rapid technological developments. For example, the Executive Branch should encourage countries to ratify and implement the World Intellectual Property Organization's (WIPO) Copyright Treaty and the WIPO Performances and Phonograms Treaty, which reflect enhanced global minimum standards of protection and enforcement for the networked digital environment.

Section 2(b)(5) also reflects the view of this Committee that strong intellectual property rights protection should be accompanied by provisions on liability that are consistent with U.S. law, including the Digital Millennium Copyright Act, and that provide limitations on the scope of remedies available against service providers for copyright infringements they do not control, initiate, or direct, and that take place through systems or networks, controlled or operated by them or on their behalf. Such limitations also must create legal incentives for service providers to cooperate with copyright owners in deterring the unauthorized storage, and transmission of copyrighted materials.

Section 2(b)(5)(C) reflects the view of this Committee that trade agreements can, and should, both foster pharmaceutical innovation and promote human access to medicines.

Finally, U.S. intellectual property industries based on intellectual property continue to suffer from unnecessary and discriminatory market access barriers around the globe. U.S. negotiators must remain vigilant and excise these barriers because they stunt the growth of otherwise highly productive industries.

(6) *Digital Trade in Goods and Services and Cross-Border Data Flows:* Section 2(b)(6) reflects the view of this Committee that digital trade in goods and services is a critical component of U.S. trade and extends beyond the term "e-commerce," encompassing both trade in digital goods and services and Internet-enabled trade in goods and services. The terms "digital" and "electronically" are to be interpreted broadly with regard to the technology used, whether digital, electronic, analog, or other technology associated with the Internet or successor platforms.

Section 2(b)(6) also reflects the view of this Committee that cross-border data flows are critical both to U.S. digital trade and to U.S. trade and investment across all other sectors. U.S. companies depend on the free flow of data across borders to identify market opportunities, innovate and develop new goods and services, maintain supply chains, and serve their customers around the globe. Both U.S. companies engaged in digital trade and U.S. exporters and investors outside of the digital trade space depend on cross-border data flows to effectively market and service their exports and to manage their global networks of customers, human resources, and vendors. As such, the term "cross-border data flows"

is to be interpreted broadly with regard to the technology employed, to include "electronic movement of information across borders," as described in the 2002 Act, as well as movement of information across borders by other means. Cross-border data flows are also to be interpreted to include not only transfer of data across borders but also processing and storage of that data abroad.

Section 2(b)(6)(C) directs negotiators to seek provisions in trade agreements to ensure that governments refrain from imposing restrictions on cross-border data flows or requirements to store and process data locally, which are detrimental to all sectors of the economy. The Committee expects U.S. negotiators to pursue provisions that afford equal protection to all sectors, including financial services.

Disciplines important to digital trade or to cross-border data flows are cross-cutting in nature, and thus other negotiating objectives described elsewhere in this section are relevant, including trade in goods, trade in services, foreign investment, intellectual property, regulatory practices, state-owned and state-controlled enterprises, localization barriers, and others. An essential negotiating objective of the United States must be to ensure that current trade obligations, rules, disciplines, and commitments—including in bilateral, regional and plurilateral agreements, as well as in WTO agreements such as the General Agreement on Tariffs and Trade (GATT), General Agreement on Trade in Services (GATS), Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), Information Technology Agreement (ITA) (with regard to information technology used in digital trade or cross-border data flows), and Government Procurement Agreement (GPA)—apply to digital trade and to cross-border data flows, which the Committee views as critical to U.S. international competitiveness.

The Committee intends that United States negotiators work to: (1) ensure that goods and services that are delivered electronically, digitally, or by similar means receive no less favorable treatment under trade rules and commitments than similar products or services delivered by other means; (2) ensure that the classification of such goods and services, whether they exist when a trade agreement enters into force or are newly developed afterward, represents the most liberal treatment possible; (3) ensure that governments refrain from implementing measures that impede digital trade, that restrict cross-border transfer, processing, or storage of data, or that, in particular, require local storage or processing of data; (4) obtain commitments from U.S. trading partners that, where legitimate policy objectives require domestic regulations that affect electronic commerce, those regulations will be least trade-restrictive, nondiscriminatory, and transparent, and will promote open markets; (5) achieve the extension of the WTO moratorium on duties on electronic transmissions in order to facilitate digital trade and cross-border data flows; (6) remove tariff and non-tariff barriers that impede trade in the hardware and the software used to deploy, market, and access the infrastructure for digital trade and for cross-border data flows, as well as the goods and services that are traded electronically; (7) achieve full market access and national treatment commitments for services that provide the infrastructure for the Internet and digital trade (*e.g.*, telecommunication, computer, advertising, financial, distribution, and express delivery

services), including services delivered digitally, electronically, or by similar means; (8) expand and deepen basic and value-added telecommunications commitments, including the Reference Paper commitments for basic telecommunications services; and (9) deter attempts to apply basic telecommunications regulations to competitive value-added, Internet Service Providers (ISP), and other Internet-related services.

The Trans-Pacific Partnership Agreement, the Trans-Atlantic Trade and Investment Partnership Agreement, and the Trade in Services Agreement each represents an important opportunity to achieve the objectives on digital trade and cross-border data flows described in the legislation and in this report, which go beyond the commitments made by the U.S.-Korea Free Trade Agreement. The view of this Committee is that the high standard laid out in the negotiating objectives on digital trade and cross-border data flows can be accomplished in a manner that respects different approaches by different countries to regulation of data privacy and data security that are consistent with the terms described in the bill and in this report.

(7) *Regulatory Practices*: In line with the changing nature of barriers to trade, and in particular the rising importance of non-tariff barriers, the negotiating objectives on regulatory practices have been significantly expanded from 2002 TPA.

"Regulatory coherence" has been given great attention by many U.S. industry groups in approaching new trade negotiations, particularly with regard to negotiations with the European Union. There is an increasing consensus across the spectrum of U.S. industry that legally binding commitments to remove or lower trade barriers abroad can be nullified by decisions, either of national and regional governments or industry standard setting and accrediting bodies, that are taken as part of regulatory processes. It has also become clear to the Committee that regulatory reform encompasses three important prongs: (1) transparency, including the ability of all affected parties to participate in rule-making process; (2) the need to ensure that regulations are fair and that they are applied without regard to the nationality of the industry or company affected by them; and (3) the need to expand cooperative activities to encourage regulatory harmonization, cooperation, and coherence.

It is the Committee's intent that each of these prongs should be pursued while maintaining the strong levels of protection embodied in U.S. law. To reflect this important concept, the legislation establishes an overall negotiating objective that ensures that the President continue to take into account legitimate United States domestic objectives, including, but not limited to, the protection of legitimate health or safety, essential security, and consumer interests. New provisions affirm that trade agreements cannot change U.S. law without Congressional action, nor prevent the United States from changing its law in the future, and confirm that U.S. law prevails in the event of a conflict.

While it is taken for granted in the United States that government processes take place in the "sunshine," such is not the case in many other countries. Recent trade agreements have encouraged greater transparency and cooperation in regulatory processes, but the Committee believes that more needs to be done. It is imperative that U.S. stakeholders be given an opportunity for meaningful

participation in the development of regulations abroad. Thus, the Committee strongly urges USTR to pursue strenuously the negotiation of crosscutting transparency disciplines, particularly in the areas of services, digital trade, and government procurement.

The realization of these negotiating objectives may require the negotiation of special rules that meet the needs of specific sectors for transparency and fair regulatory systems. In addition, consultative mechanisms are needed to promote increased transparency in the development of guidelines, rules, regulations, and laws for government procurement and other regulatory regimes. Moreover, the Committee's strong view is that transparent and fair regulatory systems are essential to the continued economic development of U.S. trading partners around the world.

This provision also includes new language directing the Administration to ensure that foreign governments base regulations on objective evidence and use sound scientific practices. It also directs the Administration to seek improved regulatory practices, promote regulatory coherence, and promote regulatory compatibility through harmonization, equivalence, or mutual recognition. It is the Committee's intent that the Administration should seek to achieve these objectives with regard to all sectors of the economy and that no sector should be *prima facie* excluded from these discussions in any trade negotiation, such as financial services in the TTIP negotiations.

The Act also includes new and expanded provisions directing the Administration to seek greater openness, transparency, and convergence of standards-development processes and encouraging the use of international and interoperable standards. Such concepts are particularly important for high-tech and innovative industries.

Section 2(b)(7)(E) reflects the view of this Committee that, in some areas, regulatory compatibility is best accomplished through harmonization, equivalence, or mutual recognition of different regulations and standards and that, in some areas, it is best accomplished through the use of global or interoperable standards.

Section 2(b)(7)(H)(i) reflects the view of this Committee that foreign governments impede a level playing field for U.S. trade and investment when, as is increasingly the case, they signal or require that unnecessary undisclosed proprietary information must be shared with them or with foreign government-affiliated entities in order for U.S. companies to obtain approval to invest, obtain licenses or permits, or receive other government approvals. Often the foreign government shares such information with state-owned competitors or otherwise fails to appropriately protect such information from disclosure. Undisclosed proprietary information includes all forms and types of financial, business, scientific, technical, economic, or engineering information, including patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, or codes, whether tangible or intangible, and whether or how stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing. Undisclosed proprietary information includes trade secrets. This objective seeks to address this significant barrier to U.S. trade and investment.

Section 2(b)(7)(H)(ii) reflects the related view of this Committee that a level playing field in the trade arena also requires that gov-

ernments protect U.S. persons' undisclosed proprietary information, such as product design schematics and software source code, from disclosure to competitors and others. This provision does not address data exclusivity regulations for pharmaceutical products, which are to be addressed in a manner consistent with the objectives on intellectual property described in the bill and this report.

The Committee notes that regulatory barriers are also addressed in several other negotiating objectives. For example, updated provisions in the agriculture negotiating objective seek robust and enforceable rules on sanitary and phytosanitary measures and address improper use of geographical indications. Similarly, new provisions direct trade negotiators to ensure that governments allow cross-border data flows, do not require local storage or processing of data, and refrain from instituting other trade-related impediments to digital trade.

(8) *State-Owned and State-Controlled Enterprises*: The addition of section 2(b)(8) reflects the view of this Committee that trade distortions, unfair competition, and actions based on other than commercial considerations by state-owned and/or state-controlled enterprises, to the extent of their engagement in commercial activity, are a major and increasing impediment to a level playing field for U.S. exporters and investors. The Committee considers disciplines that eliminate discrimination and market-distorting subsidies and that promote transparency to be critical to this objective.

(9) *Localization Barriers to Trade*: A new negotiating objective calls for eliminating and preventing measures that require U.S. producers and service providers to locate facilities, intellectual property, or other assets in a country as a market access or investment condition, including indigenous innovation measures. The addition of section 2(b)(9) reflects the view of this Committee that localization barriers to trade are a major and increasing impediment to a level playing field for U.S. exporters of both goods and services, as well as investors. Forced localization of facilities, as described in this provision, includes, but is not limited to, forced localization of computer servers and, thus, relates to the objectives on digital trade in goods and services and cross-border data flows, which identify the need for disciplines on measures that require local storage or processing of data. Localization barriers have been addressed in various chapters of recent free trade agreements, and aspects of those barriers have been included (and continue to be included) in other TPA negotiating objectives. This provision also relates closely to the objectives on foreign investment and on intellectual property in the bill and, in particular, reflect this Committee's expectation that the performance requirement included in the 2012 model Bilateral Investment Treaty will also be included in the Trans-Pacific Partnership Agreement and other future trade agreements.

(10) *Labor and the Environment*: The negotiating objective on labor and the environment has been updated to reflect specifically the practice of the most recent trade agreements, with Peru, Colombia, Panama, and South Korea. The Committee notes with satisfaction that no changes to U.S. labor or environmental laws have been required to implement any of the four agreements to which the May 10th Agreement provisions have applied and expects the same result regarding future agreements.

Consistent with the practice of the most recent trade agreements, this objective directs the Administration to seek commitments to ensure trading partners adopt and maintain in their own laws five core internationally-recognized labor standards, as stated in the 1998 ILO Declaration on the Fundamental Principles and Rights at Work:

(1) freedom of association;

(2) the effective recognition of the right to collective bargaining;

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

(4) the effective abolition of child labor and a prohibition on the worst forms of child labor; and

(5) the elimination of discrimination in respect of employment and occupation.

A new provision directs USTR to seek to ensure that trading partners adopt and maintain in their own laws obligations under any of the following MEAs to which they and the United States are both full parties, and other agreements they may agree upon:

(1) Convention on International Trade in Endangered Species;

(2) Montreal Protocol on Ozone Depleting Substances;

(3) Convention on Marine Pollution;

(4) Inter-American Tropical Tuna Convention;

(5) Ramsar Convention on the Wetlands;

(6) International Convention for the Regulation of Whaling; and

(7) Convention on Conservation of Antarctic Marine Living Resources including current and future mutually-agreed protocols, amendments, annexes or adjustments to such an agreement.

The updated objective also requires that trading partners not fail to effectively enforce labor laws or environmental laws through a sustained or recurring course of action or inaction in a manner affecting trade or investment.

The updated objective prohibits trading partners from waiving or derogating from their labor laws in a manner inconsistent with the core internationally-recognized labor standards and affecting trade or investment with the United States. Similarly, the objective prohibits trading partners from waiving or derogating from their environmental laws in a manner that weakens or reduces the protections afforded and affects trade or investment with the United States, except as provided in its law and provided not inconsistent with its obligations under common MEAs or other provisions of the trade agreement specifically agreed upon. It is the Committee's intention that the definition of "Common Multilateral Environmental Agreement" in section 11(6) prohibits the inclusion of additional MEAs not listed in that definition unless "both the United States and one or more other parties to the negotiations . . . are full parties" to the MEA. This means that the Administration should not include MEAs unless Congress has assented to the status of the United States as a full party.

The objective clarifies that decisions on distribution of enforcement resources are not a reason for not complying with labor obligations, that a trading partner retains the right to reasonable exercise of discretion and to make bona fide decisions on resource allo-

cation between labor enforcement activities among core labor standards, provided not inconsistent with its obligations, and on resource allocation with respect to other environmental laws determined to have higher priorities.

Consistent with the most recent trade agreements, this objective provides that enforceable labor and environmental obligations are subject to the same dispute settlement and remedies as other enforceable obligations under a trade agreement.

In addition, and consistent with past U.S. trade agreements, the negotiating objective ensures that trading partners are not empowered to undertake enforcement activity in the United States.

In determining whether foreign government policies and practices are covered by this negotiating objective, the Committee intends that USTR consult closely with the Congress, the private sector, and other interested groups.

The Committee also believes that the United States should seek to strengthen the capacity of U.S. trading partners to promote respect for core labor standards, as defined in the legislation. With respect to the environment, the Committee believes that the United States should seek (1) to strengthen the capacity of U.S. trading partners to protect the environment through the promotion of sustainable development; (2) to promote government practices or policies in the area of trade that improve sustainable development and to reduce or eliminate practices or policies related to trade that unduly threaten sustainable development; and (3) to seek market access for U.S. environmental technologies, goods, and services.

Finally, the Committee recognizes that in certain circumstances, aspects of practices and policies involving labor, the environment, and other matters may decrease market opportunities for U.S. exports or otherwise distort U.S. trade. Those aspects of these policies and practices may accordingly be included in trade agreements whose implementation qualifies for TPA. Specifically, the Committee intends that this negotiating objective cover the use of labor and environmental laws by another country to restrict U.S. access to its market; if another country sought to use labor or environmental restrictions to limit trade improperly, the United States should be able to respond in trade terms.

(11) *Currency:* For the first time, TPA includes a principal negotiating objective addressing currency manipulation. The legislation sets a strong objective for trade negotiators requiring that parties to a trade agreement with the United States avoid manipulating exchange rates in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other parties to the agreement. This standard reflects existing IMF obligations and reinforces U.S. efforts in other forums, such as the G7 and G20. The objective provides the Administration with tools such as cooperative mechanisms, enforceable rules, reporting, monitoring, transparency, or other means, as appropriate to address currency manipulation. This balanced approach is intended to provide the Administration with additional options for addressing currency manipulation while also allowing adequate flexibility to ensure that the Administration is not required to pursue policies that could jeopardize the dollar as the world's reserve currency or expose U.S. monetary policy to challenge. The Committee notes that

this balanced approach is fully supported by the current Administration, including the Treasury Department.

(12) *WTO and Multilateral Trade Agreements:* The Committee puts a high priority on the effective implementation of agreements concluded under WTO auspices, including agreements achieved in the Uruguay Round and subsequently in areas such as Basic Telecommunications, Financial Services, and Information Technology. The Committee also places a high priority on negotiating multilateral and plurilateral agreements through the WTO to expand market access opportunities.

The ITA, which eliminates tariffs on a wide range of products essential to the new economy, was concluded at the WTO's first Ministerial Conference at Singapore in December 1996. As of this writing, the ITA covers over 95 percent of trade in information technology products defined under the agreement. Through its work identifying standards, non-tariff measures, and possibilities for expansion of product coverage, the WTO Committee of ITA participants has demonstrated how the WTO can provide dynamic mechanisms for trade liberalization that are responsive to the ever-changing nature of sectors such as the information technology sector.

New language in TPA directs the Administration to seek an expansion of the product scope of the ITA and to seek the negotiation of other plurilateral agreements. The negotiating objectives also direct the Administration to seek expanded participation in existing plurilateral negotiations, although this direction should be understood to include only members that are willing and able to meet the high standards set forth in these agreements. The Committee intends that plurilateral agreements should not sacrifice scope of coverage in favor of broader participation. The Committee notes that one area of promise for new negotiations is a plurilateral agreement in the WTO to reduce tariffs on environmental goods, building upon efforts already undertaken through APEC.

A new provision calls for expanded competitive market opportunities for U.S. exports and to obtain fairer and more open conditions of trade, including through utilization of global value chains, and through the negotiation of new WTO multilateral and plurilateral trade agreements, such as an agreement on trade facilitation. This new provision is one of several that addresses the benefits to U.S. firms and workers of participating in global value chains and ensures that trade agreements reflect the increasingly interrelated and multi-sectoral nature of trade and investment activity.

More generally, the Committee remains concerned that many WTO members have failed to fully implement their obligations. A new provision directs the Administration to seek more active participation in the WTO Committee structure to enhance compliance with existing obligations. It also directs the Administration to seek to increase the effectiveness of such bodies, as many of them have largely stopped functioning.

With respect to the Agreement on Government Procurement, the Committee intends for the United States to seek to expand the membership of the WTO Agreement on Government Procurement; seek conclusion of a WTO Agreement on Transparency in Government Procurement; and promote global use of electronic publication of procurement information, including notices of procurement op-

portunities. In addition, the Committee intends for the United States to seek commitments ensuring access to foreign government procurement markets through regional and bilateral free trade agreements. The Committee notes its continued frustration with China for failing to submit an adequate government procurement agreement offer more than ten years after it joined the WTO.

Bilateral and regional trade agreements often rely on preferential rules of origin to determine whether a good can qualify for duty free treatment. In the area of information technology (IT) products, the Committee intends that the Administration take full account of the global nature of the IT industry in the development and application of preferential origin rules. The Committee intends that the Administration eliminate the need to apply preferential origin rules to IT products to the maximum extent possible. This goal can be accomplished by including adherence to the Information Technology Agreement (ITA) as a baseline for commitments in bilateral or regional trade agreements. The Committee also believes that the Administration should make preferential origin rules administrable and trade facilitative in any case. Such rules should foster administrative ease and market access to the maximum extent possible. To this end, the Administration should seek rules that: avoid value-content thresholds, avoid process-based rules, and confer origin based on classification changes. The Committee also believes the Administration should seek to harmonize preferential origin rules across trade arrangements. To the extent that preferential rules are administrable and trade facilitative, they should be applied uniformly across all other preferential trade agreements. Rules that vary by trade arrangement create operational disruption, administrative burdens, and trade impediments.

WTO rules permit members to sign regional trade agreements that further deepen and expand trade liberalization. The Committee believes that the United States free trade agreements are fully compliant with these WTO rules. However, it is concerned that many other countries have signed trade agreements that do not meet the WTO's stringent rules. A new provision directs the Administration to expand its efforts to address these trade-distorting agreements, including through meaningful WTO review of such agreements.

Finally, the Committee directs the Administration to increase cooperation with other international organizations. The Committee intends this to include, but not be limited to, CODEX Alimentarius, World Health Organization, Food and Agriculture Organization of the United Nations, International Labor Organization, International Monetary Fund, International Trade Center, International Telecommunications Union, Organization for Economic Cooperation and Development, World Organization for Animal Health, United Nations, United Nations Conference on Trade and Development, United Nations Environment Program, World Bank, World Customs Organization, and World Intellectual Property Organization. This Committee expects increased cooperation between the WTO and these organizations to result in increased support for and consistency with WTO rules.

(13) *Trade Institution Transparency:* The Committee observes that while the WTO and other international trade fora have improved the level of transparency in trade negotiations, there re-

mains some lack of information to the public concerning their operations and the decisions that they make. The Committee believes that enhancing the level of transparency at multilateral, plurilateral, and bilateral institutions would have twofold benefits. First, it would help U.S. citizens and the citizens of other countries to have more confidence in the operation of international trade institutions and the fairness of dispute settlement decisions. Second, increased transparency and the flow of information from international trade institutions would help U.S. exporters to be better informed as to U.S. rights under international trade rules and would improve compliance with trade agreements. Revisions to this objective make clear that such increased transparency should apply to all international trade entities—multilateral, regional, bilateral, and other international fora.

Concerning access to appropriate meetings and documentation, the Committee believes that the public has an important stake in trade decisions, including those involving dispute settlement and investment. Because openness will help to ensure fairness, it is crucial to allow the public to observe meetings and obtain documents, whenever possible. Further, the Committee believes that it is important that the documents are available as soon as practicable, so that the public has access to current information. As an additional means of increasing public access to dispute settlement proceedings, U.S. negotiators should, among other things, pursue building consensus for establishing rules allowing for submission of *amicus curiae* briefs to panels and the Appellate Body of the WTO.

(14) *Anti-Corruption:* A strengthened negotiating objective seeks high, enforceable standards by trading partners against corruption to ensure that U.S. exporters can compete on a level playing field. The Committee believes that reducing corruption in international trade and investment is fundamental to the expansion of free and fair trade around the world. Trade is a vital force for economic development, democratization, social freedom, and political stability in countries struggling to achieve these objectives. Corruption involving the use of money and other things of value to influence acts, decisions, or omissions of foreign government officials or to secure any improper advantage in a manner affecting trade or investment undermines the objectives of this legislation.

The Committee intends that obtaining high anti-corruption standards should be a principal negotiating objective. It is the Committee's view that high standards are those that are equivalent to those established under section 30A of the Securities and Exchanges Act of 1934 and sections 104 and 104A of the Foreign Corrupt Practices Act of 1977. Only standards equivalent to these will ensure that United States persons, who are bound by the Foreign Corrupt Practices Act, compete on a level playing field.

In addition, new language directs the Administration to seek commitments from trade agreement partners to work cooperatively to encourage and support anti-bribery efforts in international fora, and in particular, through the OECD Anti-Bribery Convention.

(15) *Dispute Settlement and Enforcement:* The Committee intends that USTR seek provisions in trade agreements providing for resolution of disputes between governments in an effective, timely, transparent, equitable, and reasoned manner requiring determinations based on facts and the principles of the agreement, with the

goal of increasing compliance. The Committee's primary goal with respect to this negotiating objective is to promote compliance with trade agreements. To that end, this objective includes language directing the Administration to ensure that WTO panels and the Appellate Body adhere to their mandate to apply the WTO Agreement as written, and not add to or diminish rights and obligations under the Agreement.

The Committee also believes that consultations are an important means of settling disputes early and effectively, without resort to remedies or penalties, and urges USTR to seek to establish meaningful consultation mechanisms in trade agreements.

The Committee also supports the use of compensation to resolve disputes, whereby a party found to be violating a trade agreement lowers tariffs or otherwise increases access to its own market to rebalance the loss of concessions brought upon by that party's failure to adhere to its obligations. If the parties resort to other remedies or penalties, the Committee urges USTR to ensure that dispute settlement provisions in trade agreements encourage compliance and are appropriate to the parties, nature, subject matter, and scope of the violation.

In addition, the Committee strongly believes that the remedies and penalties made available to parties under dispute settlement should have the aim of not adversely affecting parties or interests not party to the dispute while maintaining the effectiveness of the enforcement mechanism. Too often, dispute settlement has the effect of creating collateral damage by harming parties who had not been involved in the original dispute. At the same time, however, the Committee believes that whatever mechanism selected should be effective and encourage compliance with trade obligations.

The Committee also intends that trade agreements treat all principal negotiating objectives equally with respect to ability to resort to dispute settlement and availability of equivalent procedures and remedies. The Committee believes that the concept of "equivalent" remedy will allow negotiators flexibility in determining the appropriate remedies, with the fundamental purpose of finding remedies that are effective in promoting compliance with the objective at issue even if they may not be identical.

Finally, in section 5(f)(1), the Committee continues to require USTR to provide to the Committee, each time it imposes trade remedies to enforce U.S. rights under a trade agreement, an assessment of the effectiveness of those remedies. The Committee wishes to learn whether the remedy was effective in changing the behavior of the targeted party and whether the remedy had any adverse impact on parties or interests not party to the dispute. This provision underscores the Committee's commitment to an effective dispute settlement process.

(16) *Trade Remedy Laws:* The Committee continues to intend that negotiators preserve, in all trade agreements, the ability of the United States to enforce rigorously its antidumping, countervailing duty, and safeguard laws, and to avoid any agreement that would lessen the effectiveness of the current U.S. antidumping and countervailing duty remedies and safeguards. The Committee regards this directive as critically important for any new trade agreement to serve the overall economic interests of the United States.

(17) *Border Taxes:* Just as in 2002 TPA, the Committee continues to direct the Administration to obtain a revision of WTO rules to redress the disadvantage to countries like the United States that rely primarily on direct taxes for revenue rather than indirect taxes.

(18) *Textile Negotiations:* This negotiating objective remains the same as 2002 TPA. The negotiating objective to open markets and reducing distortions with respect to textiles and apparel is to obtain competitive opportunities for U.S. exports of these products in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports of textiles and apparel in the United States and to achieve fairer and more open conditions of trade.

In developing negotiating objectives for future bilateral trade agreements, the Committee urges the Administration to take into account the impact on the industry of: (1) all trade agreements covering textiles and apparel to which the United States is a party; and (2) preferential tariff programs such as the Africa Growth and Opportunity Act and the Haitian Hemispheric Opportunity through Partnership Encouragement Act.

(19) *Commercial Partnerships:* The principal negotiating objective set forth in subparagraph 2(b)(19) directs the Administration to address the growing trend of boycotts, divestments, and sanctions against Israel. The negotiating objective specifically directs the United States to discourage and eliminate these actions in the context of the Transatlantic Trade and Investment Partnership negotiations, but this Committee also expects the Administration to explore addressing these actions in other fora, including other trade agreement negotiations and other bilateral and multilateral programs or activities of international engagement including but not limited to the World Trade Organization (WTO), Group of 20 (G20), the Organization for Economic Cooperation and Development (OECD), and the Asia-Pacific Economic Cooperation (APEC), as well. The Committee supports continuing to strengthen United States-Israel economic cooperation and recognizes the tremendous strategic, economic, and technological value of cooperation with Israel.

(20) *Good Governance, Transparency, the Effective Operation of Legal Regimes, and the Rule of Law of Trading Partners:* Subsection 2(b)(20) is a new provision, directing the Administration to strengthen the effective operation of legal regimes and the rule of law, including through capacity building and other appropriate means, which contributes to the creation of more open democratic societies and the promotion of respect for internationally recognized human rights.

Section 2(c): The Committee believes that in order to achieve the full benefits of trade agreements, the Administration must also provide capacity building and technical assistance to trading partners. Accordingly, a new section in the legislation seeks to ensure implementation and compliance by U.S. trading partners with their commitments under trade agreements by strengthening their legal regimes and rule of law through capacity building and technical assistance provided by relevant Federal agencies.

It is the Committee's intent that capacity building should include a broad range of issues including, but not limited to, customs and

trade facilitation, sanitary and phytosanitary measures, technical barriers to trade, intellectual property rights, labor, and the environment.

In addition, the Committee directs the Administration to seek to establish consultative mechanisms to strengthen the capacity of trade agreement partners to develop and implement standards for the protection of the environment and human health based on sound science.

USTR is to consult regularly with Members and the House Advisory Group on Negotiations regarding its capacity building efforts and report to the Committee on these efforts.

The Committee also intends to enhance domestic policy coordination and communication, both in the United States and in other countries, between Multilateral Environmental Agreement (MEA) and trade agreement negotiators, with a view toward the continued compatibility of MEA and WTO rules.

Effective date

The provision is effective upon enactment.

SECTION 3: TRADE AGREEMENTS AUTHORITY

Present law

Section 2103(a) of 2002 TPA provides the President, under certain conditions, the authority to proclaim certain duty modifications. Section 2103(b) of 2002 TPA authorizes the President to enter into a trade agreement with a foreign country, under certain conditions, and provides the requirements for implementing bills procedures, including requiring that the agreement must make progress in meeting the applicable objectives and the President satisfies the consultation requirements. 2002 TPA provided this authority to agreements entered into before July 1, 2005. An extension until July 1, 2007, was permitted unless Congress passed a disapproval resolution, as described under section 2103(c). Such an extension was sought, and no Congressional disapproval resolution was introduced.

Explanation of provision

Subsection 3(a) provides trade agreements authority for agreements regarding tariff barriers. This subsection permits the President, subject to Congressional notification requirements and certain limitations, to enter into trade agreements with foreign countries to modify duties or other import restrictions that unduly burden U.S. trade before July 1, 2018 (or July 1, 2021 if trade authorities procedures are extended), and may proclaim changes to duties the President determines to be required or appropriate to carry out any such trade agreement. After those dates, substantial modifications or additions to the trade agreement are not be eligible for approval under this subsection. This proclamation authority does not apply to an agreement that reduces any rate of duty that is 5 percent or more at the date of enactment of the act by 50 percent or more, reduces the rate of duty on import sensitive agricultural products to a rate of duty below that applicable under the Uruguay Round Agreements, or increases of any rate of duty above the rate that applied at the date of enactment of the Act.

Subsection 3(b) provides trade agreements procedures for agreements regarding tariff and nontariff barriers. The subsection authorizes the President to engage in trade negotiations, subject to Congressional consultations requirements, to address tariff and non-tariff barriers. An agreement may be entered into under this subsection only if it makes progress in meeting the negotiating objectives of section 2 and the President satisfies the conditions set forth in sections 4 and 5. The subsection applies only to agreements entered into before July 1, 2018 (or before July 1, 2021, if Congress extends the trade agreements authority). After those dates, substantial modifications or additions to the trade agreement are not be eligible for approval under this subsection. The subsection provides that a bill implementing a trade agreement entered into under this subsection qualifies for the trade authorities procedure set out in section 151 of the Trade Act of 1974 if the bill consists of a provision approving the trade agreement and only such provisions as are strictly necessary or appropriate to implement the trade agreement.

Subsection 3(c) establishes the process for the extension of trade authority procedures by the President, if requested, and for the consideration of a disapproval resolution by Congress to disallow such extension. The Advisory Committee for Trade Policy and Negotiations established under section 135 of the Trade Act of 1974 and the International Trade Commission are also directed to submit reports on the extension request to Congress.

Subsection 3(d) directs the President to pursue negotiations covering tariff and nontariff barriers affecting any industry, product, or service sector, and to expand existing sectoral agreements, when doing so is feasible and timely and would benefit the United States. It also directs the President in so doing to take into account all Congressional negotiating objectives.

Reason for change

Subsection 3(a) extends to the President the same authority to proclaim tariff modifications as 2002 TPA. This authority includes authority to negotiate reciprocal duty eliminations on a sectoral basis within the WTO. The Committee believes that the 1997 Information Technology Agreement negotiated by President Clinton under the auspices of the WTO to eliminate tariffs for information technology products all over the world was a substantial accomplishment and seeks to have it expanded to cover additional products. The Committee recognizes, however, that the ability of the United States to implement such agreements is limited because section 111(b) of the Uruguay Round Agreements Act (URAA) provides the President with proclamation authority applicable only to a limited number of sectors—those that are negotiated multilaterally under the WTO or that were the subject of negotiations on reciprocal duty elimination ("zero-for-zero") or harmonization during the Uruguay Round. Because of the success that an expansion of the Information Technology Agreement promises for U.S. businesses and U.S. workers, the Committee intends to provide authority for similar WTO sector-specific negotiations even if the sector had not been the subject of zero-for-zero negotiations during the Uruguay Round.

This authority will permit the Administration to provide some limited incentives for other WTO members to agree to duty reductions and elimination as well as accelerated staging for products. This provision ensures that an agreement that reduces U.S. duties will be concluded in a manner that ensures that the United States receives adequate benefits in return for action in this area. For such negotiations participation by all WTO Members would not be necessary, and in some cases agreement with a limited number of countries with major trading interests in a particular sector would be sufficient.

Therefore, the purpose of this special tariff proclamation authority is to permit the U.S. Trade Representative to negotiate sector-specific tariff elimination or harmonization agreements that go beyond the URAA section 111(b) authority. This sequencing would allow the United States the near term benefits from tariff elimination, while preserving the ability of countries, including the United States, to condition the tariff cuts on a final comprehensive agreement on all subjects under negotiation in the new round.

While the Committee does not intend to limit the possible tariff elimination agreements that could be reached under this authority, it does wish to identify the following areas where it believes that tariff elimination negotiations should be focused:

Accelerated tariff elimination in those sectors where consensus can be achieved;

Geographic and product expansion of the zero-for-zero tariff agreements reached in the Uruguay Round and in the Information Technology Agreement;

Accelerated tariff elimination in environmental goods; and

Geographic expansion of tariff harmonization agreements reached in the Uruguay Round.

One recent example of a negotiation that would fall within this authority is the agreement that the United States and other countries are seeking to reduce tariffs on certain environmental goods.

Section 3(b) provides that bills implementing trade agreements qualify for trade authorities procedures only if those bills consist solely of provisions approving the trade agreement and any statement of administrative action accompanying the agreement, and provisions strictly necessary or appropriate to implement the trade agreement.

If the foregoing conditions are met, then the trade authorities procedures described in section 151 of the Trade Act of 1974 apply to the implementing bill. Section 151 of that Act sets forth a timetable for consideration of implementing bills in the Committees of jurisdiction and on the floor of each House of Congress. Ordinarily, the maximum time for consideration in both Chambers will be 90 legislative days. Section 151 also prohibits amendments to implementing bills and limits the time for debate on the floor of each House to 20 hours (subject to further limitation).

With respect to bills qualifying for trade promotion authority, it is the Committee's intent to extend authority to the President to negotiate agreements that would be subject to the special procedures similar to that given to past Administrations. The Committee also intends to provide the President with the flexibility needed to negotiate strong trade agreements.

However, the Committee believes that for constitutional reasons, it is important to make trade promotion authority as tailored as possible, so as not to unnecessarily intrude on normal legislative procedures. Trade authorities procedures are exceptions to the ordinary rules of procedure, permitted only because the executive and legislative branches share Constitutional authority in the area of trade and the President and Congress each has important powers with respect to trade and foreign affairs issues. Therefore, trade agreements do not readily fit the legislative model used to consider other types of legislation. Trade authorities procedures assure that trade relations with other countries are handled expeditiously and efficiently, with the involvement of the executive and legislative branches throughout the process. The Committee believes that these procedures should apply only to meet the special requirements of trade agreements. Further, Section 3(b) makes clear that trade authorities procedures should apply only to those provisions in an implementing bill that are strictly necessary or appropriate to implement the underlying agreement, as stated in the Senate Finance and House Ways and Means Committee reports accompanying the Trade of 2002. It is the Committee's intent that this authority is consistent with prior grants of authority. While the Committee considers that implementing bills introduced since the 2002 Act have met this standard, there are disagreements about some aspects of bills prior to 2002. As has been recognized in the past, to apply the procedures more broadly would encroach on Congress's constitutional authority to legislate. The Committee continues to takes a strict interpretation of this requirement.

Specifically, the Committee emphasizes that trade promotion authority, particularly section 3(b)(3)(C), should not apply to proposals to make wholesale changes to U.S. law merely because those laws may be addressed in the agreement. The Committee has been concerned that several provisions that were not related to implementing the trade agreement at hand have been included in past implementing bills.

H.R. 1890 applies the same substantive and procedural requirements to all types of agreements, including bilateral, regional, and multilateral agreements.

H.R. 1890 provides trade promotion authority to agreements entered into before July 1, 2018. An extension until July 1, 2021, is permitted unless Congress passes a disapproval resolution, as described under subsection 3(c). Subsections 3(a)(1) and 3(b)(1) make clear that this authority does not apply to substantial modifications to, or substantial additional provisions of, a trade agreement if those modifications or provisions are entered into after this authority has expired.

Effective date

The provision is effective upon enactment.

SECTION 4: CONGRESSIONAL OVERSIGHT, CONSULTATIONS, AND ACCESS TO INFORMATION

Present law

Subsection 2102(d) of 2002 TPA requires that USTR consult closely and on a timely basis with the Congressional Oversight

Group (COG) appointed under section 2107 of that Act. In addition, USTR is required to consult closely (including immediately before the initialing of an agreement) with the congressional advisers on trade policy and negotiations appointed under section 161 of the Trade Act of 1974, as well as the House Committee on Ways and Means, the Senate Committee on Finance, and the Congressional Oversight Group. Section 2107 required USTR to consult with Members of the COG and that COG Members are to be accredited as official advisors to the U.S. delegation in the negotiations.

Explanation of provision

This section establishes the procedures through which Congress exercises oversight over trade negotiations that are subject to trade authorities under this Act.

Subsection 4(a) provides detailed requirements for the Administration's consultations with Congress. It specifies that in the course of negotiations, the United States Trade Representative (USTR) shall: meet upon request with any Member of Congress; provide access to pertinent documents, including classified materials; engage in timely consultation with the Senate Finance Committee and the House Ways and Means Committee; engage in timely consultation with the House and Senate Advisory Groups on Negotiations and with all committees of the House and the Senate with jurisdiction over laws that could be affected by a trade agreement; and engage in timely consultations with the House and Senate Committees on Agriculture concerning negotiations and agreements relating to agricultural trade. Prior to entry into force of a trade agreement, USTR shall keep Congress apprised of measures a trading partner has taken to comply with provisions that will take effect on the date the agreement enters into force.

This subsection also requires USTR, in consultation with the Chairs and Ranking Members of the Senate Finance Committee and the House Ways and Means Committee, to develop within 120 days of enactment written guidelines on enhanced coordination with Congress. The guidelines are to ensure timely briefings with any Member of Congress and the sharing of information, including documents and classified information, with Members of Congress and their staff with proper security clearances as appropriate, as well as cleared Committee staff as appropriate in light of Committee responsibilities. The guidelines are to be disseminated to all departments and agencies with jurisdiction over laws affected by the trade negotiations.

Subsection 4(b) provides procedures for designating individual Members as Congressional Advisers on Trade Policy and Negotiations and for consultations with those Members. Any Member of Congress may be designated as such a Congressional Adviser. In the course of trade negotiations, USTR shall consult closely with these congressional advisers. The advisers shall be accredited by USTR as official advisers to trade delegations.

Subsection 4(c) establishes the House and Senate Advisory Groups on Negotiations, sets forth membership requirements for each, including designation of the Chair and Ranking Member of any Committee that would have jurisdiction over provisions of law affected by a trade agreement. The subsection also outlines requirements for USTR to consult with and seek advice from the Advisory

Groups and provides mechanisms for coordination with Members of Congress not on the Advisory Groups. Advisory Group Members shall be accredited by USTR as official advisers to trade delegations. USTR, together with the Chairs and Ranking Members of the Senate Finance Committee and the House Ways and Means Committee, shall develop written guidelines for the closest practicable coordination with the Advisory Groups, including detailed briefings on a fixed timetable. After a trade agreement is concluded, there shall be ongoing consultation regarding compliance with the agreement.

Subsection 4(d) establishes procedures for consultations with the public. USTR, together with the Chairs and Ranking Members of the Senate Finance Committee and the House Ways and Means Committee, shall develop written guidelines for public access to information regarding trade negotiations in order to facilitate transparency, encourage public participation, and promote collaboration in the negotiation process, including through disclosure of information and through frequent opportunities for public input through the Federal Register and other means. The guidelines are to be disseminated to all relevant departments and agencies.

Subsection 4(e) addresses consultations with the Trade Advisory Committees created by the Trade Act of 1974. USTR, together with the Chairs and Ranking Members of the Senate Finance Committee and the House Ways and Means Committee, shall develop written guidelines to enhance coordination with the Advisory Committees in order to provide timely briefings and opportunities for input on matters regarding sectors and functional areas the Committees represent. The guidelines shall also outline the sharing of information and documents, including classified materials, to each member of an Advisory Committee and designee with proper security clearances, as appropriate. The guidelines are to be disseminated to all relevant departments and agencies with jurisdiction over laws affected by the trade negotiations.

Subsection 4(f) establishes a Chief Transparency Officer at USTR, responsible for consulting with Congress on transparency policy, coordinating transparency in trade negotiations, engaging and assisting the public, and advising the USTR on transparency policy.

Reason for change

The Committee recognizes that trade negotiations require a robust partnership between Congress and the Administration. These provisions further empower Congress through new and expanded consultation requirements and ensure that Congress plays a meaningful role in trade negotiations. If the President fails to meet these new and expanded consultation requirements, Congress can strip an implementing bill of TPA through a procedural disapproval resolution.

The Committee notes that in the past, consultations have been at times less than ideal and wishes to improve this process considerably to make it more meaningful. The Committee emphasizes that Congress must be thoroughly involved in all phases of the negotiating process and must have the ability to fully express its views and exercises its constitutional role. The Committee intends that throughout the process, the consultations address the nature

of the agreement in question, how and to what extent the agreement will achieve the applicable purposes, policies, and objectives set forth in H.R. 1890, and all matters relating to implementation under section 6, including the effect of the agreement on U.S. laws.

Subsection 4(a): The Committee intends to expand the consultation requirements both between the Administration and the Committee as well as the Administration and individual Members of Congress. Previous versions of TPA have addressed in general terms the consultation requirements between the Administration and Committees of jurisdiction. However, for the first time, H.R. 1890 also specifically requires robust consultations with individual Members of Congress.

Subsections 4(a)(1)(A)–(B) are new provisions that require the Administration to consult with individual Members of Congress. Subsection 4(a)(1)(A) requires USTR to consult with any interested Member of Congress who requests such consultations at any time before, during, or after negotiations. The Committee expects that these consultations will be held promptly and that they will be responsive in scope to the Member's request.

Subsection 4(a)(1)(B) for the first time statutorily requires that USTR provide access to pertinent documents relating to the negotiations, including classified information, to every Member of Congress upon request. The Committee intends this provision to require USTR to share current negotiating text, if requested, with any Member. The Committee intends that Member's staff with proper security clearances may accompany the Member in viewing that text. The Committee expects that consultations and the sharing of negotiating text will be prompt and responsive in scope to the Member's request. Given the sensitive nature of these documents, proper procedures must be followed to protect their confidentiality.

Subsection 4(a)(1)(C) requires USTR to consult closely and on a timely basis with this Committee. While previous versions of TPA required close consultations with this Committee, the Committee specifically intends that these consultations under 2015 TPA will be expansive in scope and the most detailed as is feasible. Such consultations must be both meaningful and timely, including consulting on U.S. negotiating positions before those positions are shared with cleared advisors or our trading partners.

Subsection 4(a)(1)(D) requires USTR to consult closely and on a timely basis with the newly created House Advisory Group on Negotiations and all Committees with jurisdiction over laws that could be affected by a trade agreement. This provision would require, for example, consultation with the Committee on Energy and Commerce with regard to regulatory issues and the Committee on the Judiciary with regard to issues such as intellectual property, competition, and digital trade as the United States seeks to have other countries develop standards consistent with U.S. law. Subsection 4(1)(E) requires specific consultations with the Agriculture Committee on matters relating to agriculture trade. The Committee expects these consultations to be both meaningful and timely.

Subsection 4(a)(2) contains a new requirement that mandates consultations prior to initiating procedures for entry into force (EIF) of a trade agreement. The Committee expects the Adminis-

tration to maintain the same detailed and timely level of consultations prior to entry into force as it maintains in other stages of the negotiations. Historically, such EIF consultations have not always been robust. The Committee intends that these consultations will improve the implementation process for trade agreements and ensure that trade agreements do not enter into force until a trading partner has taken appropriate steps to comply with those provisions of the agreement that are to take effect on the date that the agreement enters into force.

Subsection 4(a)(3) requires USTR to develop within 120 days, in consultation with this Committee, specific guidelines for engagement with Congress, including timely briefings and the sharing of detailed and timely information and pertinent documents, including classified information, to provide for meaningful and timely consultation with Congress. By developing written guidelines for the exchange of information in consultation with the Committee, USTR will formally institutionalize the consultation process to maximize its effectiveness. The Committee intends to play a substantial and meaningful role in the development and finalization of these guidelines.

Subsection 4(b): In order to expand the opportunity for individual Members of Congress to consult with the Administration and to provide input into the trade agreement negotiation process, subsection 4(b) creates, for the first time, the opportunity for any Member of Congress to be designated as a Congressional Adviser on Trade Policy and Negotiations. The Committee intends for these Congressional Advisers to receive enhanced consultations that are both meaningful and timely. In addition, subsection 4(b) requires USTR to accredit any such Congressional Adviser as an official adviser to United States delegations to international conferences, meetings, and negotiating sessions relating to trade agreements, allowing Congressional Advisers access to the negotiating site and regular consultations with USTR when on site.

Subsection 4(c): The House and Senate Advisory Groups on Negotiations are new entities created by this Act, meant to replace the Congressional Oversight Group with two separate groups to facilitate regular consultation and engagement with USTR. The Advisory Groups are designed to involve a broad bipartisan cross-section of the House and Senate so that USTR will benefit from many viewpoints. Specifically, the Committee intends that the Groups be bipartisan and include representation beyond the Ways and Means and Finance Committees to include those Committees that have jurisdiction over provisions of law affected by a trade negotiation. The composition of the Group is flexible to allow for the inclusion, after the convening of the Group, of additional Committees if developments in the negotiation indicate that they will have jurisdiction over laws affected by the negotiation.

It is the Committee's intent that the Administration shall meet on a regular, fixed timetable with the House Advisory Group. These consultations shall cover such matters as: the formulation of objectives, negotiating strategies, and U.S. positions; the shape and structure of the applicable trade agreement; and implementation, compliance, and enforcement of negotiated trade agreement commitments. The precise timetable of meetings will be determined

through the development of guidelines, as provided for in subsection 4(c)(3).

Subsection 4(d): The new section on consultations with the public is designed to expand and formalize USTR's public consultation process. This subsection requires the development of guidelines for meaningful engagement, including public access to information and enhanced coordination with Trade Advisory Committees. It is the Committee's intent that these guidelines provide for meaningful and timely consultation with a broad range of stakeholders to facilitate transparency, encourage public participation, and promote collaboration in the negotiation process. The Committee intends to play a meaningful role in the development and finalization of these guidelines. In order to facilitate the broadest possible consultations across all parts of the government, subsection 4(d)(4) directs the Administration to distribute these guidelines to all relevant federal agencies that could have jurisdiction over laws affected by trade negotiations.

Subsection 4(e): The Committee notes with concern that the Administration has removed many subject matter experts from Trade Advisory Committees in recent years. The absence of these subject matter experts has had a meaningful, and harmful, effect on the ability of Congress and the Administration to gather pertinent information on the state of negotiations and the likely practical effect on U.S. stakeholders, which undercuts the premise of their establishment in 1974. The Committee believes that the ability of the United States to achieve the best outcomes has been undercut as a result of the Administration's practice. The Committee calls on the Administration to ensure that subject matter experts fill these Trade Advisory Committees and have the opportunity communicate their views and expertise to the Administration and to the Congress.

The development of new guidelines as directed in this subsection will ensure meaningful and timely briefings and the sharing of detailed and timely information and pertinent documents with existing Trade Advisory Committees. The Committee intends to play a meaningful role in the development and finalization of these guidelines. In order to facilitate the broadest possible consultations across all parts of the government, subsection 4(e)(3) directs the Administration to distribute these guidelines to all relevant federal agencies that could have jurisdiction over laws affected by trade negotiations.

Subsection 4(f): The Committee directs the Administration to establish a Chief Transparency Officer at USTR. This person should be responsible for consulting with Congress on transparency policy, coordinating transparency in trade negotiations, engaging and assisting the public, and advising the USTR on transparency policy. The Committee anticipates that these duties could be assigned to an existing position at USTR, with the title of that position being updated to reflect these important new responsibilities.

Effective date

The provision is effective upon enactment.

SECTION 5: NOTICE, CONSULTATIONS, AND REPORTS

Present law

Section 2104 of 2002 TPA established a series of requirements with respect to notice, consultations, and reporting to Congress.

Explanation of provision

Subsection 5(a) specifies the notice, consultations, and reports that Congress must receive before the President initiates trade negotiations. Section 5(a)(1) provides that prior to entering into trade negotiations, the President must provide Congress 90 days' written notice and consult with the Senate Finance Committee, the House Ways and Means Committee, other appropriate Committees of the House and Senate, and the House and Senate Advisory Groups on Negotiations. The President must publish and regularly update on the USTR website a detailed and comprehensive summary of the objectives for the trade negotiations, as well as publish a description of how the trade agreement would further those objectives and benefit the United States.

Subsection 5(a)(2) pertains to negotiations that concern agriculture, and states that the President must conduct an assessment of all relevant tariffs and consult with the Agriculture Committees of the House and Senate. Additional consultations are to take place with respect to import sensitive products, fish or shellfish trade, and textiles. Subparagraph 5(a)(5) requires the President, in determining whether to enter into negotiations with a particular country, to take into account the extent to which that country has implemented its trade and investment commitments to the United States.

Subsection 5(b) requires the President, before entering into any trade agreement under subsection 3(b), to consult with the Senate Finance Committee, the House Ways and Means Committee, other relevant congressional Committees, and the House and Senate Advisory Groups on Negotiations. The consultations are to address the nature and objectives of the agreement and the general effect of the agreement on existing laws. At least 180 days before entering into a trade agreement, the President is also required to report on the effect of the agreement on U.S. trade remedy laws. This subsection further describes the procedures by which the House or Senate may consider a resolution finding that proposed changes to trade remedy laws are inconsistent with the negotiating objectives concerning trade remedies. This section also requires submission of Advisory Committee reports within 30 days of the President's notification to Congress of his intention to enter into a trade agreement.

Subsection 5(c) requires that the President, within 90 days before entering into an agreement, to provide the International Trade Commission (ITC) with details of the agreement and that, not later than 105 days after entering into the agreement, the ITC will submit a report to the President and Congress assessing the likely impact of the agreement on the U.S. economy. This report shall be made public.

Subsection 5(d) specifies that at the time the President submits to Congress the final text of an agreement, the President shall submit to the Senate Finance Committee and the House Ways and

Means Committee: a report regarding an environmental review of future trade and investment agreements, including an assessment of the operation of consultative mechanisms aimed at capacity building; a report regarding the impact of trade agreements on U.S. employment; and a meaningful labor rights report with respect to the countries with which the United States is negotiating, along with a description of any provisions that would require changes to U.S. labor law and practice. These reports shall be made public.

Subsection 5(e) specifies that at the time the President submits to Congress the final text of an agreement, the President shall also submit an implementation and enforcement plan that assesses border personnel requirements, agency staffing requirements, customs infrastructure requirements, and the impact on state and local governments. This assessment shall be made public. The President's next budget submission must include a request for the resources necessary to support the plan.

Subsection 5(f) requires the submission of additional reports concerning: the effectiveness of trade penalties and remedies; the economic impact of all trade agreements enacted under trade authorities procedures since 1984, and to update the report within five years; and enforcement actions taken pursuant to a trade agreement. These reports shall be made public. This section also requires USTR to consult with the Senate Finance Committee and the House Ways and Means Committee after acceptance of a petition for review or taking an enforcement action in regard to an obligation under a trade agreement, including a labor or environmental obligation.

Subsection 5(g) sets forth that any Member of the House or Senate may submit his or her views on any matter relevant to a proposed trade agreement to the Senate Finance Committee or the House Ways and Means Committee, and the relevant Committee is to receive those views for consideration.

Reason for change

The Committee emphasizes the importance of timely, complete, and rigorous consultations between the Administration and Congress. Accordingly, 2015 TPA expands the requirements of 2002 TPA in several areas, particularly with regard to reporting requirements. In addition, several reporting requirements from 2102(c), 2108, and 2111 of 2002 TPA have been moved to this section. The improvements made with respect to consultations in this section and in Section 4 are designed to assure maximum Congressional participation before, during, and after the trade negotiating process.

Subsection 5(a): Subsection 5(a)(1) continues to require that the Administration provide prior written notice of negotiations and engage in robust consultations prior to entering into negotiations. The consultation requirements apply equally to all negotiations: bilateral, regional, and multilateral. The Committee intends that consultations should be robust and continuous and that the Administration consult meaningfully with Congress during the exploratory phase, including before choosing a negotiating partner or submitting the formal notification required in subsection (5)(a)(1)(A).

The Committee believes that it is essential that the United States not join a consensus in favor of a new entrant into an agree-

ment that is already being negotiated if the entrant is not willing and able to meet the standard of the agreement or if its entry would change, rather than further, U.S. objectives for the agreement.

For example, the Committee notes that China has expressed interest in joining the TISA negotiations and encourages the Administration to engage with China and the other TISA participants to set the stage for China's possible entry if it proves that it is willing and able to meet the standard for the agreement. This Committee expects the Administration to work closely with China to develop evidence that U.S. concerns, which are numerous and significant, have been addressed and to consult regularly with this Committee throughout that process.

The new requirement found in Subsection 5(a)(1)(D) that the President publish and regularly update on the USTR website a detailed and comprehensive summary of the objectives for the trade negotiations, as well as a description of how the trade agreement would further those objectives and benefit the United States, is intended to keep the public well-informed about the negotiations.

Subsection 5(a)(5) expands upon subsection 2102(e) of 2002 TPA and reflects the view of the Committee that a trading partner's adherence to its existing international trade and investment agreement obligations is an important factor that should be considered before initiating new negotiations. This analysis is also pertinent with respect to determining whether potential new entrants to Doha-related agreements are willing and able to meet the standard of such agreements.

Subsection 5(b): This subsection consolidates reporting and consultation requirements from 2002 TPA related to consultation with Congress before entry into an agreement. For the first time, these reports are required by statute to be made public, which the Committee views as an important element in keeping the public well-informed about the negotiations.

Subsection 5(c): This report was previously required by subsection 2104(f) of 2002 TPA. In response to recommendations from the General Accountability Office and requests from the International Trade Commission, the timeframe for preparing this report has been extended from 90 to 105 days. For the first time, this report is required by statute to be made public in the interest of greater transparency.

Subsection 5(d): This subsection consolidates reporting requirements from 2002 TPA related to reports submitted to Committees with the agreement. For the first time, all of these reports are required by statute to be made public.

Subsection 5(d)(3)(B) is a new reporting requirement that requires the Administration to include a description of any provisions that would require changes to the labor laws and labor practices of the United States. The Committee notes with satisfaction that no changes to U.S. labor or environmental laws have been required to implement any of the four agreements to which the May 10th Agreement provisions have applied and expects the same result regarding future agreements.

Subsection 5(e): This analysis was required by subsection 2108 of 2002 TPA. For the first time, this analysis is required by statute to be made public in the interest of greater transparency.

Subsection 5(f): This subsection consolidates other reports from 2002 TPA and includes several new or expanded reports. For the first time, all of these reports are required by statute to be made public in the interest of keeping the public well-informed.

Subsection 5(f)(2) updates and expands a report required by section 2111 of 2002 TPA on the impact of TPA.

The Act requires the International Trade Commission to prepare two reports on the economic impact on the United States of all trade agreements implemented under TPA since 1984, the first due in the year after the Act takes effect and the second due five years thereafter. Prior to preparing these reports, it is expected that the International Trade Commission will consult with the Senate Finance Committee and the House Committee on Ways and Means regarding the appropriate methodology to be used for purposes of these reports, and possible new approaches. The Committee expects that these reports will provide greater information and analysis about the benefits of trade agreements to the U.S. economy.

Subsection 5(f)(3) is a new provision on enforcement consultations and reports. The Committee believes that successful negotiations by themselves are not sufficient to realize the benefits from free trade agreements and that monitoring and enforcement are complementary and necessary factors in the trade liberalization process. That is, meaningful progress will result when trading partners know that the United States stands ready to enforce its rights under trade agreements. This provision, the Committee believes, will help to enhance the enforcement efforts of the United States.

The Committee is also concerned that in the past, the Administration has considered and accepted petitions for enforcement action even though no case had been made that the agreement had been violated. The Committee believes that the Administration must first review petitions to determine whether the claims satisfy the legal criteria before initiating a review on the merits.

Subsection 5(g): The Committee intends this new provision to provide an additional avenue for Member input into the trade negotiating process by submitting views to the Committee, which will receive those views for consideration. The subsection also provides an opportunity for Members to submit their views to their representative to the Advisory Group on Negotiations.

Effective date

The provision is effective upon enactment.

SECTION 6: IMPLEMENTATION OF TRADE AGREEMENTS

Present law

Section 2015 of 2002 TPA provides requirements with respect to implementation of trade agreements.

Explanation of provision

Subsection 6(a) specifies that at least 90 days before entering into a trade agreement, the President must notify Congress of the President's intent to enter into that agreement and publish a notice in the Federal Register. At least 60 days before entering into the agreement, the President must publish the text of the agreement on the USTR website. Within 60 days after entering into the agree-

ment, the President must submit a description of changes to existing laws that would be required by the agreement. At least 30 days before formally submitting the trade agreement to Congress, the President must provide to Congress a copy of the final legal text of the agreement and a draft statement of administrative action proposed to implement the agreement.

On a day on which both Houses of Congress are in session, the President must submit the final text of the agreement, a draft implementing bill, a statement of administrative action, and certain supporting information. Among the required supporting information is a statement asserting how the agreement makes progress in achieving the objectives of this Act, whether and how the agreement changes provisions of an agreement previously negotiated, and how the agreement serves the interests of U.S. commerce. The supporting information shall be made public.

Any agreement with a foreign government that is not disclosed before the introduction of an implementing bill shall not be considered part of the agreement and will have no force in U.S. law or in any dispute settlement body.

Subsection 6(b) sets forth the processes and procedures for disapproval of the use of TPA if the President has failed or refused to notify or consult in accordance with this Act, or for failure to meet certain other requirements, including failing to make progress in achieving the purposes, policies, priorities, and objectives of this Act. Subsection 6(b)(1) contains the procedural disapproval resolution process by which both chambers of Congress, acting jointly, may withdraw trade authorities procedures on an expedited basis. Subsections 6(b)(3) and (4) set forth the consultation and compliance resolution processes by which each chamber of Congress may unilaterally withdraw trade authorities procedures for that chamber.

Subsection 6(b)(1)(B)(ii) states that the President has failed or refused to notify or consult if: the agreement fails to make progress in achieving the purposes, policies, priorities, and objectives of this Act; the President failed to consult in accordance with sections 4, 5, or 6; the President has not met with the House and Senate Advisory Groups on Negotiations; or the consultation and transparency guidelines required by section 4 have not been developed. In addition, the subsection provides that trade authorities procedures shall not apply to any implementing bill for an agreement negotiated under the auspices of the WTO if the President has not issued a report setting forth a strategy to address Congressional concerns regarding WTO dispute settlement panels and the Appellate Body by December 15, 2015.

Subsection 6(c) reaffirms that Congressional procedures under this Act are established as an exercise of the rulemaking power of the House of Representatives and the Senate and recognizes the constitutional right of either House to change the rules at any time, in the same manner, and to the same extent as any other rule of that House.

Reason for change

The procedures established under H.R. 1890 track closely to those of 2002 TPA and the 1988 Act, but with several important revisions to enhance and improve the Administration's account-

ability to Congress. As has been the practice under 2002 TPA, the Committee believes that these provisions require Congress to participate meaningfully in the drafting of the implementing bill.

As in the past, there is no deadline for the submission of the legislation by the President once an agreement has been concluded because the Committee intends that the Committees and the Administration have as much time as necessary to consider the content of the legislation. The Committee believes that the informal mark-up process conducted before formal submission of the implementing bill provides the Congress, the public, and the private sector ample opportunity to participate in the development of the proposed legislation and to provide their views to the Administration. The Committee fully expects the Administration to continue its practice of considering carefully the comments made during this informal process and of making no changes to the legislation beyond those recommended by the Committees. If the Administration must make changes to reconcile differing recommendations by the relevant Committees, the Committee expects that the Administration will continue to consult with the affected Committees. After the formal introduction, certain deadlines are appropriate because Congress has already conducted its process informally.

Subsection 6(c), which has not changed, reaffirms that each House of Congress retains the right to withdraw TPA through exercise of its normal rulemaking authority at any time.

H.R. 1890 makes six key changes to existing law. First, subsection 6(a)(1)(B) requires the Administration to publish the text of the agreement on the USTR website at least 60 days before the President can enter into the agreement. This new provision allows the public to review and consult on the full agreement with adequate time before it is finalized.

Second, subsection 6(a)(1)(D) requires the President to provide Congress with a copy of the final legal text of the agreement and a draft statement of administrative action proposed to implement the agreement at least 30 days before formally submitting the trade agreement to Congress. This is intended to provide the Committee with the information necessary to conduct its mock-mark-up. It also allows Congress as a whole to review the materials with adequate time before the implementing bill is transmitted for consideration pursuant to this bill. In particular, early transmission of the statement of administrative action allows Congress an opportunity to understand how the Administration intends to implement the agreement if Congress passes implementing legislation. By requiring this information 30 days in advance, Congress is provided additional time to consult with the Administration on its implementation plan.

Third, subsection 6(a)(1)(G) requires notification of Congress prior to entry into force. The Committee intends that the Administration shall maintain the same level of consultations prior to entry into force as it maintains in other stages of the negotiations, which has not always been the case. The Committee intends that this notification requirement will improve the implementation process for trade agreements and ensure that trade agreements do not enter into force until a trading partner has taken appropriate steps to comply with those provisions of the agreement that are to take effect on the date that the agreement enters into force.

Fourth, subsection 6(a)(2)(B) requires that all reports and supporting information submitted with an implementing bill be made public.

Fifth, the scope of the disapproval resolution in subsection 6(b) has been expanded to include all consultation requirements. In 2002 TPA, the disapproval resolution was available only for certain consultation obligations, and the Committee views this provision as a significant change expanding the power of Congress to revoke TPA if the Administration fails to meet any of the consultation requirements. Furthermore, Congress has the authority to pass a disapproval resolution to strip TPA for a particular agreement if the Administration fails to make progress in achieving the purposes, policies, priorities, and objectives included in this Act. This provision makes clear that it is the sole discretion of Congress to determine whether progress has been made.

Sixth, subsections 6(b)(3) and (4) create a Consultation and Compliance Resolution process for the Senate and House, respectively. The Consultation and Compliance Resolution is an additional mechanism to withdraw trade authorities procedures for legislation implementing a trade agreement when it does not comply with TPA, in particular because the President fails or refuses to consult, or the agreement fails to make progress in achieving the purposes, policies, priorities and objectives of this bill. This mechanism reflects the critical role that effective Congressional oversight plays in ensuring that the President secures trade agreements that reflect Congressional negotiating priorities. Furthermore, for Congressional oversight to be effective, the Administration must adhere to the consultation requirements established in this bill so that Members, cleared advisors, and the public are appropriately kept informed throughout the negotiation process. In that regard, the House Committee on Ways and Means and the Senate Committee on Finance play a particularly important role in engaging with the Administration and ensuring that negotiations reflect Congressional priorities.

The Committee intends to fully perform its responsibility over the negotiation and implementation of trade agreements. It is expected that, for any trade agreement transmitted to Congress pursuant to this bill, the Committee will meet on whether to report the implementing bill before it is considered on the floor of the Chamber. When the Committee meets on whether to report an implementing bill, it reports that bill, either with a favorable recommendation, or with a recommendation that is other than favorable. For every trade agreement considered under expedited procedures since the Trade Act of 1974 became law, the House Ways and Means and Senate Finance Committees have convened meetings prior to floor consideration of an implementing bill. These meetings have provided an important opportunity for members of the Committees to discuss the merits of the agreement and express their views on whether or not the agreement reflects Congressional negotiating priorities and the degree to which consultation requirements have been met. Furthermore, the Committees have always reported implementing bills to their respective chambers and expect to continue that practice.

Under the new procedures in subsections 6(b)(3) and (4), if either of the Committees fails to favorably report an implementing bill

when the Committee meets on whether to report an implementing bill, it will report a Consultation and Compliance Resolution to its respective chamber that can result in the disqualification of a bill implementing the trade agreement from receiving trade authorities procedures in that chamber. The Consultation and Compliance Resolution will ensure that the Administration is particularly mindful of Congressional negotiating priorities and consultation requirements. As a result, the Administration will be more likely to negotiate agreements that accurately reflect the views of Congress and provide the greatest benefit to American workers, businesses, farmers, manufacturers and service providers.

Section 6(b)(4) governs consideration of a consultation and compliance resolution in the House of Representatives. Subparagraph (A) establishes the conditions precedent for consideration of such a resolution by the Committee on Ways and Means, namely that (1) the Committee on Ways and Means reports a particular implementing bill other than favorably and (2) a Member has introduced a consultation and compliance resolution addressing the same agreement or agreements on the legislative day following the filing of the report to accompany that implementing bill. If those conditions are met, the Committee on Ways and Means must meet and consider a consultation and compliance resolution.

Subparagraph (B) describes the consideration of the consultation and compliance resolution by the Committee on Ways and Means. The Committee must meet not later than the fourth legislative day after the date on which a qualifying consultation and compliance resolution is introduced. The Committee is only required to consider a single resolution meeting the requirements of subparagraph (A); after meeting the requirements for consideration for one such resolution, the Committee is not required to consider additional resolutions addressing the same implementing bill. If, for any reason, the Committee fails to report the resolution to the House by the sixth legislative day after the date of introduction, the Committee will be discharged from the further consideration of the measure.

Subparagraph (C) specifies the form of the resolution and provides that the resolution shall be referred to the Committee on Ways and Means. This provision is not intended to limit the jurisdiction of any other committee or the Speaker's authority to refer measures pursuant to clause 2 of rule XII.

Effective date

The provision is effective upon enactment.

SECTION 7: TREATMENT OF CERTAIN TRADE AGREEMENTS FOR WHICH NEGOTIATIONS HAVE ALREADY BEGUN

Present law

Section 2106 of 2002 TPA exempted the following agreements from pre-negotiation consultation requirements of subsection 2104(a): agreements resulting from ongoing negotiations with Chile or Singapore, an agreement establishing a Free Trade Area of the Americas, and agreements concluded under the auspices of the WTO.

Explanation of provision

Subsection 7(a) concerns the applicability of trade authorities procedures to implementing bills for certain trade negotiations commenced prior to enactment of this Act, including negotiations under the auspices of the WTO, the Trans-Pacific Partnership, trade negotiations with the European Union, negotiations with respect to trade in services, and negotiations with respect to environmental goods.

Subsection 7(b) sets forth special notification and consultation procedures with respect to the negotiations identified in subsection 7(a), with respect only to the initial 90-day notification prior to initiation of negotiations.

Reason for change

The Committee recognizes the importance of the listed negotiations to the United States and the need to implement them under trade promotion authority. Section 7(a)(4) refers to the Trade in Services Agreement being negotiated in Geneva. Section 7(a)(5) refers to the Environmental Goods Agreement also being negotiated in Geneva.

Because each of these negotiations began before enactment of H.R. 1890, it would not be possible for the Administration to comply with the pre-negotiation consultation requirements set forth in section 5(a). Accordingly, the Committee believes these requirements, and these requirements only, should be waived with regard to these agreements. However, the Committee expects that the Administration will consult with Congress as soon as feasible after enactment of this Act and will continue to consult closely with the Committee throughout the negotiations so that the Committee may be informed about the issues and communicate any concerns.

Effective date

The provision is effective upon enactment.

SECTION 8: SOVEREIGNTY

Present law

No provision.

Explanation of provision

This section stipulates that the application of any provision of a trade agreement that is inconsistent with U.S. law shall have no effect; that no provision of a trade agreement shall prevent the United States from amending or modifying its laws; and that reports issued by dispute settlement panels convened under trade agreements shall have no binding effect under U.S. law.

Reason for change

Section 8 affirms that trade agreements cannot change U.S. law without Congressional action, nor prevent the United States from changing its law in the future. Section 8 also confirms that U.S. law prevails in the event of a conflict. It also confirms that decisions of arbitral tribunals do not have direct legal effect in the United States. Under the Constitution, only Congress can change U.S. law.

Effective date

The provision is effective upon enactment.

SECTION 9: INTERESTS OF SMALL BUSINESS

Present law

Section 2112 of 2002 TPA addresses the interests of small business.

Explanation of provision

Section 9 expresses the sense of Congress that USTR should facilitate participation by small businesses in the trade negotiation process; that the functions of the USTR official relating to small business should be reflected in the title of that official; and that the interests of small businesses should be considered in all trade negotiations.

Reason for change

This provision is updated to reflect the Committee's intent that USTR should facilitate participation by small businesses in the trade negotiation process, reflect the interests of small businesses, and that the functions of the Assistant USTR for small business should be reflected in that AUSTR's title.

Effective date

The provision is effective upon enactment.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of H.R. 1890, the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, on April 23, 2015.

The bill, H.R. 1890, was ordered favorably reported as amended by a roll call vote of 25 yeas to 13 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Ryan	✓			Mr. Levin		✓	
Mr. Johnson	✓			Mr. Rangel		✓	
Mr. Brady	✓			Mr. McDermott		✓	
Mr. Nunes	✓			Mr. Lewis		✓	
Mr. Tiberi	✓			Mr. Neal		✓	
Mr. Reichert	✓			Mr. Becerra		✓	
Mr. Boustany	✓			Mr. Doggett		✓	
Mr. Roskam	✓			Mr. Thompson		✓	
Mr. Price	✓			Mr. Larson		✓	
Mr. Buchanan	✓			Mr. Blumenauer	✓		
Mr. Smith (NE)	✓			Mr. Kind	✓		
Ms. Jenkins	✓			Mr. Pascrell		✓	
Mr. Paulsen	✓			Mr. Crowley		✓	
Mr. Marchant	✓			Mr. Davis		✓	
Ms. Black	✓			Ms. Sanchez		✓	
Mr. Reed	✓						
Mr. Young	✓						
Mr. Kelly	✓						
Mr. Renacci	✓						
Mr. Meehan	✓						
Ms. Noem	✓						
Mr. Holding	✓						
Mr. Smith (MO)	✓						

The vote on the amendment by Rangel to H.R. 1890, which would modify the scope of the ITC's report on the effect of a trade agreement, was not agreed to by a roll call vote of 23 nays to 15 yeas (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Ryan		✓		Mr. Levin	✓		
Mr. Johnson		✓		Mr. Rangel	✓		
Mr. Brady		✓		Mr. McDermott	✓		
Mr. Nunes		✓		Mr. Lewis	✓		
Mr. Tiberi		✓		Mr. Neal	✓		
Mr. Reichert		✓		Mr. Becerra	✓		
Mr. Boustany		✓		Mr. Doggett	✓		
Mr. Roskam		✓		Mr. Thompson	✓		
Mr. Price		✓		Mr. Larson	✓		
Mr. Buchanan		✓		Mr. Blumenauer	✓		
Mr. Smith (NE)		✓		Mr. Kind	✓		
Ms. Jenkins		✓		Mr. Pascrell	✓		
Mr. Paulsen		✓		Mr. Crowley	✓		
Mr. Marchant		✓		Mr. Davis	✓		
Ms. Black		✓		Ms. Sanchez	✓		
Mr. Reed		✓					
Mr. Young		✓					
Mr. Kelly		✓					
Mr. Renacci		✓					
Mr. Meehan		✓					
Ms. Noem		✓					
Mr. Holding		✓					
Mr. Smith (MO)		✓					

The vote on the amendment by Mr. Becerra to H.R. 1890, which requires trade agreements to include an enforceable currency manipulation provision in order for a trade agreement to be considered under TPA procedures, was not agreed to by a roll call vote of 24 nays to 14 yeas (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Ryan		✓		Mr. Levin	✓		
Mr. Johnson		✓		Mr. Rangel	✓		
Mr. Brady		✓		Mr. McDermott	✓		
Mr. Nunes		✓		Mr. Lewis	✓		
Mr. Tiberi		✓		Mr. Neal	✓		
Mr. Reichert		✓		Mr. Becerra	✓		
Mr. Boustany		✓		Mr. Doggett	✓		
Mr. Roskam		✓		Mr. Thompson	✓		
Mr. Price		✓		Mr. Larson	✓		
Mr. Buchanan		✓		Mr. Blumenauer	✓		
Mr. Smith (NE)		✓		Mr. Kind		✓	
Ms. Jenkins		✓		Mr. Pascrell	✓		
Mr. Paulsen		✓		Mr. Crowley	✓		
Mr. Marchant		✓		Mr. Davis	✓		
Ms. Black		✓		Ms. Sanchez	✓		
Mr. Reed		✓					
Mr. Young		✓					
Mr. Kelly		✓					
Mr. Renacci		✓					
Mr. Meehan		✓					
Ms. Noem		✓					
Mr. Holding		✓					
Mr. Smith (MO)		✓					

The vote on the amendment by Mr. Neal and Mr. Larson to H.R. 1890, which would amend the currency negotiating objective to require it be subject to the same dispute settlement procedures as other provisions in the trade agreement, was not agreed to by a roll call vote of 24 nays to 14 yeas (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Ryan		✓		Mr. Levin	✓		
Mr. Johnson		✓		Mr. Rangel	✓		
Mr. Brady		✓		Mr. McDermott	✓		
Mr. Nunes		✓		Mr. Lewis	✓		
Mr. Tiberi		✓		Mr. Neal	✓		
Mr. Reichert		✓		Mr. Becerra	✓		
Mr. Boustany		✓		Mr. Doggett	✓		
Mr. Roskam		✓		Mr. Thompson	✓		
Mr. Price		✓		Mr. Larson	✓		
Mr. Buchanan		✓		Mr. Blumenauer	✓		
Mr. Smith (NE)		✓		Mr. Kind		✓	
Ms. Jenkins		✓		Mr. Pascrell	✓		
Mr. Paulsen		✓		Mr. Crowley	✓		
Mr. Marchant		✓		Mr. Davis	✓		
Ms. Black		✓		Ms. Sanchez	✓		
Mr. Reed		✓					
Mr. Young		✓					
Mr. Kelly		✓					
Mr. Renacci		✓					
Mr. Meehan		✓					
Ms. Noem		✓					
Mr. Holding		✓					
Mr. Smith (MO)		✓					

The vote on the amendment by Mr. Lewis to H.R. 1890, which would allow human rights legislation to be included in trade agreement implementing bills and would require trade agreements to satisfy certain labor and human rights standards for TPA procedures to apply to that trade agreement, was not agreed to by a roll call vote of 23 nays to 15 yeas (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Ryan		✓		Mr. Levin	✓		
Mr. Johnson		✓		Mr. Rangel	✓		
Mr. Brady		✓		Mr. McDermott	✓		
Mr. Nunes		✓		Mr. Lewis	✓		
Mr. Tiberi		✓		Mr. Neal	✓		
Mr. Reichert		✓		Mr. Becerra	✓		
Mr. Boustany		✓		Mr. Doggett	✓		
Mr. Roskam		✓		Mr. Thompson	✓		
Mr. Price		✓		Mr. Larson	✓		
Mr. Buchanan		✓		Mr. Blumenauer	✓		
Mr. Smith (NE)		✓		Mr. Kind	✓		
Ms. Jenkins		✓		Mr. Pascrell	✓		
Mr. Paulsen		✓		Mr. Crowley	✓		
Mr. Marchant		✓		Mr. Davis	✓		
Ms. Black		✓		Ms. Sanchez	✓		
Mr. Reed		✓					
Mr. Young		✓					
Mr. Kelly		✓					
Mr. Renacci		✓					
Mr. Meehan		✓					
Ms. Noem		✓					
Mr. Holding		✓					
Mr. Smith (MO)		✓					

The vote on the amendment by Mr. Doggett to H.R. 1890, which would require trade agreements to include a number of changes to the investment chapter in order for TPA procedures to apply, was not agreed to by a roll call vote of 25 nays to 13 yeas (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Ryan		✓		Mr. Levin	✓		
Mr. Johnson		✓		Mr. Rangel	✓		
Mr. Brady		✓		Mr. McDermott	✓		
Mr. Nunes		✓		Mr. Lewis	✓		
Mr. Tiberi		✓		Mr. Neal	✓		
Mr. Reichert		✓		Mr. Becerra	✓		
Mr. Boustany		✓		Mr. Doggett	✓		
Mr. Roskam		✓		Mr. Thompson	✓		
Mr. Price		✓		Mr. Larson	✓		
Mr. Buchanan		✓		Mr. Blumenauer		✓	
Mr. Smith (NE)		✓		Mr. Kind		✓	
Ms. Jenkins		✓		Mr. Pascrell	✓		
Mr. Paulsen		✓		Mr. Crowley	✓		
Mr. Marchant		✓		Mr. Davis	✓		
Ms. Black		✓		Ms. Sanchez	✓		
Mr. Reed		✓					
Mr. Young		✓					
Mr. Kelly		✓					
Mr. Renacci		✓					
Mr. Meehan		✓					
Ms. Noem		✓					
Mr. Holding		✓					
Mr. Smith (MO)		✓					

The vote on the amendment by Mr. Becerra to H.R. 1890, which would exempt Medicare and Medicaid from ISDS disputes, was not agreed to by a roll call vote of 25 nays to 13 yeas (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Ryan		✓		Mr. Levin	✓		
Mr. Johnson		✓		Mr. Rangel	✓		
Mr. Brady		✓		Mr. McDermott	✓		
Mr. Nunes		✓		Mr. Lewis	✓		
Mr. Tiberi		✓		Mr. Neal	✓		
Mr. Reichert		✓		Mr. Becerra	✓		
Mr. Boustany		✓		Mr. Doggett	✓		
Mr. Roskam		✓		Mr. Thompson	✓		
Mr. Price		✓		Mr. Larson	✓		
Mr. Buchanan		✓		Mr. Blumenauer		✓	
Mr. Smith (NE)		✓		Mr. Kind		✓	
Ms. Jenkins		✓		Mr. Pascrell	✓		
Mr. Paulsen		✓		Mr. Crowley	✓		
Mr. Marchant		✓		Mr. Davis	✓		
Ms. Black		✓		Ms. Sanchez	✓		
Mr. Reed		✓					
Mr. Young		✓					
Mr. Kelly		✓					
Mr. Renacci		✓					
Mr. Meehan		✓					
Ms. Noem		✓					
Mr. Holding		✓					
Mr. Smith (MO)		✓					

The vote on the amendment by Mr. Thompson to H.R. 1890, which would amend the foreign investment negotiating objective, was not agreed to by a roll call vote of 25 nays to 13 yeas (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Ryan		✓		Mr. Levin	✓		
Mr. Johnson		✓		Mr. Rangel	✓		
Mr. Brady		✓		Mr. McDermott	✓		
Mr. Nunes		✓		Mr. Lewis	✓		
Mr. Tiberi		✓		Mr. Neal	✓		
Mr. Reichert		✓		Mr. Becerra	✓		
Mr. Boustany		✓		Mr. Doggett	✓		
Mr. Roskam		✓		Mr. Thompson	✓		
Mr. Price		✓		Mr. Larson	✓		
Mr. Buchanan		✓		Mr. Blumenauer		✓	
Mr. Smith (NE)		✓		Mr. Kind		✓	
Ms. Jenkins		✓		Mr. Pascrell	✓		
Mr. Paulsen		✓		Mr. Crowley	✓		
Mr. Marchant		✓		Mr. Davis	✓		
Ms. Black		✓		Ms. Sanchez	✓		
Mr. Reed		✓					
Mr. Young		✓					
Mr. Kelly		✓					
Mr. Renacci		✓					
Mr. Meehan		✓					
Ms. Noem		✓					
Mr. Holding		✓					
Mr. Smith (MO)		✓					

The vote on the amendment by Mr. Doggett to H.R. 1890, which would among other things, require USTR to share negotiating texts with staff with appropriate security clearances, was not agreed to by a roll call vote of 22 nays to 15 yeas (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Ryan		✓		Mr. Levin	✓		
Mr. Johnson		✓		Mr. Rangel	✓		
Mr. Brady		✓		Mr. McDermott	✓		
Mr. Nunes		✓		Mr. Lewis	✓		
Mr. Tiberi		✓		Mr. Neal	✓		
Mr. Reichert		✓		Mr. Becerra	✓		
Mr. Boustany		✓		Mr. Doggett	✓		
Mr. Roskam		✓		Mr. Thompson	✓		
Mr. Price				Mr. Larson	✓		
Mr. Buchanan		✓		Mr. Blumenauer	✓		
Mr. Smith (NE)		✓		Mr. Kind	✓		
Ms. Jenkins		✓		Mr. Pascrell	✓		
Mr. Paulsen		✓		Mr. Crowley	✓		
Mr. Marchant		✓		Mr. Davis	✓		
Ms. Black		✓		Ms. Sanchez	✓		
Mr. Reed		✓					
Mr. Young		✓					
Mr. Kelly		✓					
Mr. Renacci		✓					
Mr. Meehan		✓					
Ms. Noem		✓					
Mr. Holding		✓					
Mr. Smith (MO)		✓					

The vote on the amendment by Mr. Doggett to H.R. 1890, which would require a trade agreement to include enforceable commitments to enforce seven multilateral environmental agreements in order for TPA procedures to apply, was not agreed to by a roll call vote of 22 nays to 15 yeas (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Ryan		✓		Mr. Levin	✓		
Mr. Johnson		✓		Mr. Rangel	✓		
Mr. Brady		✓		Mr. McDermott	✓		
Mr. Nunes		✓		Mr. Lewis	✓		
Mr. Tiberi		✓		Mr. Neal	✓		
Mr. Reichert		✓		Mr. Becerra	✓		
Mr. Boustany		✓		Mr. Doggett	✓		
Mr. Roskam		✓		Mr. Thompson	✓		
Mr. Price				Mr. Larson	✓		
Mr. Buchanan		✓		Mr. Blumenauer	✓		
Mr. Smith (NE)		✓		Mr. Kind	✓		
Ms. Jenkins		✓		Mr. Pascrell	✓		
Mr. Paulsen		✓		Mr. Crowley	✓		
Mr. Marchant		✓		Mr. Davis	✓		
Ms. Black		✓		Ms. Sanchez	✓		
Mr. Reed		✓					
Mr. Young		✓					
Mr. Kelly		✓					
Mr. Renacci		✓					
Mr. Meehan		✓					
Ms. Noem		✓					
Mr. Holding		✓					
Mr. Smith (MO)		✓					

The vote on the amendment by Mr. Thompson to H.R. 1890, which would require trade agreements to recognize issues related to climate change, was not agreed to by a roll call vote of 22 nays to 15 yeas (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Ryan		✓		Mr. Levin	✓		
Mr. Johnson		✓		Mr. Rangel	✓		
Mr. Brady		✓		Mr. McDermott	✓		
Mr. Nunes		✓		Mr. Lewis	✓		
Mr. Tiberi		✓		Mr. Neal	✓		
Mr. Reichert		✓		Mr. Becerra	✓		
Mr. Boustany		✓		Mr. Doggett	✓		
Mr. Roskam		✓		Mr. Thompson	✓		
Mr. Price				Mr. Larson	✓		
Mr. Buchanan		✓		Mr. Blumenauer	✓		
Mr. Smith (NE)		✓		Mr. Kind	✓		
Ms. Jenkins		✓		Mr. Pascrell	✓		
Mr. Paulsen		✓		Mr. Crowley	✓		
Mr. Marchant		✓		Mr. Davis	✓		
Ms. Black		✓		Ms. Sanchez	✓		
Mr. Reed		✓					
Mr. Young		✓					
Mr. Kelly		✓					
Mr. Renacci		✓					
Mr. Meehan		✓					
Ms. Noem		✓					
Mr. Holding		✓					
Mr. Smith (MO)		✓					

The vote on the amendment by Mr. McDermott to H.R. 1890, which would shorten the length of time that TPA would apply to trade agreements, changing the end date to January 2017, was not agreed to by a roll call vote of 25 nays to 13 yeas (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Ryan		✓		Mr. Levin	✓		
Mr. Johnson		✓		Mr. Rangel	✓		
Mr. Brady		✓		Mr. McDermott	✓		
Mr. Nunes		✓		Mr. Lewis	✓		
Mr. Tiberi		✓		Mr. Neal	✓		
Mr. Reichert		✓		Mr. Becerra	✓		
Mr. Boustany		✓		Mr. Doggett	✓		
Mr. Roskam		✓		Mr. Thompson	✓		
Mr. Price		✓		Mr. Larson	✓		
Mr. Buchanan		✓		Mr. Blumenauer		✓	
Mr. Smith (NE)		✓		Mr. Kind		✓	
Ms. Jenkins		✓		Mr. Pascrell	✓		
Mr. Paulsen		✓		Mr. Crowley	✓		
Mr. Marchant		✓		Mr. Davis	✓		
Ms. Black		✓		Ms. Sanchez	✓		
Mr. Reed		✓					
Mr. Young		✓					
Mr. Kelly		✓					
Mr. Renacci		✓					
Mr. Meehan		✓					
Ms. Noem		✓					
Mr. Holding		✓					
Mr. Smith (MO)		✓					

The vote on the amendment by Mr. Pascrell to H.R. 1890, which would prohibit trade agreements that permit the import of food, feed, or food ingredients or products that do not meet or exceed U.S. standards with respect to food safety, pesticides, inspections, packaging, and labeling into the United States from a country that is a party to the trade agreement, was not agreed to by a roll call vote of 22 nays to 15 yeas (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Ryan		✓		Mr. Levin	✓		
Mr. Johnson		✓		Mr. Rangel	✓		
Mr. Brady		✓		Mr. McDermott	✓		
Mr. Nunes		✓		Mr. Lewis	✓		
Mr. Tiberi		✓		Mr. Neal	✓		
Mr. Reichert		✓		Mr. Becerra	✓		
Mr. Boustany		✓		Mr. Doggett	✓		
Mr. Roskam		✓		Mr. Thompson	✓		
Mr. Price		✓		Mr. Larson	✓		
Mr. Buchanan		✓		Mr. Blumenauer	✓		
Mr. Smith (NE)		✓		Mr. Kind	✓		
Ms. Jenkins		✓		Mr. Pascrell	✓		
Mr. Paulsen		✓		Mr. Crowley	✓		
Mr. Marchant		✓		Mr. Davis	✓		
Ms. Black		✓		Ms. Sanchez	✓		
Mr. Reed		✓					
Mr. Young		✓					
Mr. Kelly		✓					
Mr. Renacci		✓					
Mr. Meehan		✓					
Ms. Noem							
Mr. Holding		✓					
Mr. Smith (MO)		✓					

The vote on the amendment by Mr. Pascrell to H.R. 1890, which would prohibit trade agreements that weaken, undermine, or necessitate the waiver of the Buy American Act, was not agreed to by a roll call vote of 22 nays to 14 yeas (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Ryan		✓		Mr. Levin	✓		
Mr. Johnson		✓		Mr. Rangel	✓		
Mr. Brady		✓		Mr. McDermott	✓		
Mr. Nunes		✓		Mr. Lewis	✓		
Mr. Tiberi		✓		Mr. Neal	✓		
Mr. Reichert		✓		Mr. Becerra	✓		
Mr. Boustany		✓		Mr. Doggett	✓		
Mr. Roskam		✓		Mr. Thompson	✓		
Mr. Price		✓		Mr. Larson	✓		
Mr. Buchanan		✓		Mr. Blumenauer	✓		
Mr. Smith (NE)		✓		Mr. Kind			
Ms. Jenkins		✓		Mr. Pascrell	✓		
Mr. Paulsen		✓		Mr. Crowley	✓		
Mr. Marchant		✓		Mr. Davis	✓		
Ms. Black		✓		Ms. Sanchez	✓		
Mr. Reed		✓					
Mr. Young		✓					
Mr. Kelly		✓					
Mr. Renacci		✓					
Mr. Meehan		✓					
Ms. Noem							
Mr. Holding		✓					
Mr. Smith (MO)		✓					

The vote on the amendment by Mr. Pascrell to H.R. 1890, which would require a trade agreement to contain strict rules of origin and a specific level of automotive product rules of origin, in order for TPA procedures to apply, was not agreed to by a roll call vote of 22 nays to 15 yeas (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Ryan		✓		Mr. Levin	✓		
Mr. Johnson		✓		Mr. Rangel	✓		
Mr. Brady		✓		Mr. McDermott	✓		
Mr. Nunes		✓		Mr. Lewis	✓		
Mr. Tiberi		✓		Mr. Neal	✓		
Mr. Reichert		✓		Mr. Becerra	✓		
Mr. Boustany		✓		Mr. Doggett	✓		
Mr. Roskam		✓		Mr. Thompson	✓		
Mr. Price		✓		Mr. Larson	✓		
Mr. Buchanan		✓		Mr. Blumenauer	✓		
Mr. Smith (NE)		✓		Mr. Kind	✓		
Ms. Jenkins		✓		Mr. Pascrell	✓		
Mr. Paulsen		✓		Mr. Crowley	✓		
Mr. Marchant		✓		Mr. Davis	✓		
Ms. Black		✓		Ms. Sanchez	✓		
Mr. Reed		✓					
Mr. Young		✓					
Mr. Kelly		✓					
Mr. Renacci		✓					
Mr. Meehan		✓					
Ms. Noem							
Mr. Holding		✓					
Mr. Smith (MO)		✓					

The vote on the amendment by Pascrell to H.R. 1890, which expresses the sense of Congress that China should not join the Trans-Pacific Partnership until both chambers of Congress certified that the country has not intervened in its exchange rate for a year and has fully transitioned to a market economy, was not agreed to by a roll call vote of 24 nays to 13 yeas (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Ryan		✓		Mr. Levin	✓		
Mr. Johnson		✓		Mr. Rangel	✓		
Mr. Brady		✓		Mr. McDermott	✓		
Mr. Nunes		✓		Mr. Lewis	✓		
Mr. Tiberi		✓		Mr. Neal	✓		
Mr. Reichert		✓		Mr. Becerra	✓		
Mr. Boustany		✓		Mr. Doggett	✓		
Mr. Roskam		✓		Mr. Thompson	✓		
Mr. Price		✓		Mr. Larson	✓		
Mr. Buchanan		✓		Mr. Blumenauer		✓	
Mr. Smith (NE)		✓		Mr. Kind		✓	
Ms. Jenkins		✓		Mr. Pascrell	✓		
Mr. Paulsen		✓		Mr. Crowley	✓		
Mr. Marchant		✓		Mr. Davis	✓		
Ms. Black		✓		Ms. Sanchez	✓		
Mr. Reed		✓					
Mr. Young		✓					
Mr. Kelly		✓					
Mr. Renacci		✓					
Mr. Meehan		✓					
Ms. Noem							
Mr. Holding		✓					
Mr. Smith (MO)		✓					

The vote on the amendment by Ms. Sanchez to H.R. 1890, which would restrict TPA procedures from being applied to trade agreements with any party that has a penal case punishing the LGBT community, was not agreed to by a roll call vote of 22 nays to 15 yeas (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Ryan		✓		Mr. Levin	✓		
Mr. Johnson		✓		Mr. Rangel	✓		
Mr. Brady		✓		Mr. McDermott	✓		
Mr. Nunes		✓		Mr. Lewis	✓		
Mr. Tiberi		✓		Mr. Neal	✓		
Mr. Reichert		✓		Mr. Becerra	✓		
Mr. Boustany		✓		Mr. Doggett	✓		
Mr. Roskam		✓		Mr. Thompson	✓		
Mr. Price		✓		Mr. Larson	✓		
Mr. Buchanan		✓		Mr. Blumenauer	✓		
Mr. Smith (NE)		✓		Mr. Kind	✓		
Ms. Jenkins		✓		Mr. Pascrell	✓		
Mr. Paulsen		✓		Mr. Crowley	✓		
Mr. Marchant		✓		Mr. Davis	✓		
Ms. Black		✓		Ms. Sanchez	✓		
Mr. Reed		✓					
Mr. Young		✓					
Mr. Kelly		✓					
Mr. Renacci		✓					
Mr. Meehan		✓					
Ms. Noem							
Mr. Holding		✓					
Mr. Smith (MO)		✓					

IV. BUDGET EFFECTS OF THE BILL

A. Committee Estimate of Budgetary Effects

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 1890, as reported. The Committee agrees with the estimate prepared by the Congressional Budget Office (CBO), which is included below.

B. Statement Regarding New Budget Authority and Tax Expenditures Budget Authority

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee states further that the bill involves no new or increased tax expenditures.

C. Cost Estimate Prepared by the Congressional Budget Office

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

U.S. Congress,
Congressional Budget Office,
Washington, DC, April 29, 2015.

Hon. Paul Ryan,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1890, the Bipartisan Congressional Trade Priorities and Accountability Act of 2015.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Ann E. Futrell.

Sincerely,

Keith Hall.

Enclosure.

H.R. 1890—Bipartisan Congressional Trade Priorities and Accountability Act of 2015

H.R. 1890 would restore the President's authority to enter into multilateral and bilateral trade agreements. The authority would be extended through July 1, 2018, with the possibility to extend for another three years at the President's request. Pay-as-you-go procedures apply because enacting the legislation could affect revenues. Enacting the bill would not affect direct spending.

H.R. 1890 would authorize two different methods for the United States to enter into multilateral and bilateral trade agreements. First, the bill would reinstate a rarely used authority that would allow the President to reduce certain duty rates within specified limitations without further Congressional action. While this authority could result in a reduction in estimated revenue, CBO has no basis for determining when or if the President would lower duty rates or the extent of such changes. Therefore, CBO cannot estimate the effect of enacting this proposal.

Second, the bill would restore the President's authority to propose trade agreements under an expedited procedure for Congressional approval, often referred to as "fast track authority." For such trade agreements, the Congress would not be able to amend the implementing legislation once it was introduced. Furthermore, as long as the President met statutory requirements concerning Congressional consultation during the negotiation process, the Congress would be required to act on the legislation following a strict timetable. CBO estimates that enacting this authority would not affect revenues or direct spending because future trade agreements would require the Congress to pass implementing legislation.

In addition, implementing H.R. 1890 would affect spending subject to appropriation. Based on information from the U.S. International Trade Commission, CBO estimates that implementing the reporting requirements under the bill would cost less than $500,000 over the 2015–2020 period, assuming the availability of appropriated amounts.

H.R. 1890 also would amend current law regarding oversight and consultations during trade agreements. Specifically, the bill would require a number of consultations by the U.S. Trade Representative with congressional advisory committees regarding trade talks. According to the U.S. Trade Representative, this provision would generally codify the agency's current policy and practice. Thus, CBO estimates implementing these requirements would cost less than $500,000 over the 2015–2020 period.

H.R. 1890 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

The CBO staff contact for this estimate is Ann E. Futrell. The estimate was approved by Theresa Gullo, Assistant Director for Budget Analysis.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE OF REPRESENTATIVES

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was as a result of the Committee's review of the provisions of H.R. 1890 that the Committee concluded that it is appropriate to report the bill, as amended, favorably to the House of Representatives with the recommendation that the bill do pass.

B. Statement of General Performance Goals and Objectives

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

D. Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

E. Duplication of Federal Programs

In compliance with Sec. 3(g)(2) of H. Res. 5 (114th Congress), the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95–220, as amended by Pub. L. No. 98–169).

F. Disclosure of Directed Rule Makings

In compliance with Sec. 3(i) of H. Res. 5 (114th Congress), the following statement is made concerning directed rule makings: The Committee estimates that the bill requires no directed rule makings within the meaning of such section.

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

A. Text of Existing Law Amended or Repealed by the Bill, as Reported

In compliance with clause 3(e)(1)(A) of rule XIII of the Rules of the House of Representatives, the text of each section proposed to be amended or repealed by the bill, as reported, is shown below:

TEXT OF EXISTING LAW AMENDED OR REPEALED BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(A) of rule XIII of the Rules of the House of Representatives, the text of each section proposed to be amended or repealed by the bill, as reported, is shown below:

TRADE ACT OF 1974

* * * * * * *

TITLE I—NEGOTIATING AND OTHER AUTHORITY

* * * * * * *

CHAPTER 3—HEARINGS AND ADVICE CONCERNING NEGOTIATIONS

SEC. 131. ADVICE FROM INTERNATIONAL TRADE COMMISSION.

(a) LISTS OF ARTICLES WHICH MAY BE CONSIDERED FOR ACTION.—

(1) In connection with any proposed trade agreement under section 123 of this Act or section 2103(a) or (b) of the Bipartisan Trade Promotion Authority Act of 2002, the President shall from time to time publish and furnish the International Trade Commission (hereafter in this section referred to as the "Commission") with lists of articles which may be considered for modification or continuance of United States duties, continuance of United States duty-free or excise treatment, or additional duties. In the case of any article with respect to which consideration may be given to reducing or increasing the rate of duty, the list shall specify the provision of this subchapter under which such consideration may be given.

(2) In connection with any proposed trade agreement under section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002, the President may from time to time publish and furnish the Commission with lists of nontariff matters which may be considered for modification.

(b) ADVICE TO PRESIDENT BY COMMISSION.—Within 6 months after receipt of a list under subsection (a) or, in the case of a list submitted in connection with a trade agreement, within 90 days after receipt of such list, the Commission shall advise the President, with respect to each article or nontariff matter, of its judgment as to the probable economic effect of modification of the tariff or nontariff measure on industries producing like or directly competitive articles and on consumers, so as to assist the President in making an informed judgment as to the impact which might be caused by such modifications on United States interests, such as sectors involved in manufacturing, agriculture, mining, fishing, services, intellectual property, investment, labor, and consumers. Such advice may include in the case of any article the advice of the Commission as to whether any reduction in the rate of duty should take place over a longer period of time than the minimum period provided for in section 2103(a)(3)(A) of the Bipartisan Trade Promotion Authority Act of 2002.

(c) ADDITIONAL INVESTIGATIONS AND REPORTS REQUESTED BY THE PRESIDENT OR THE TRADE REPRESENTATIVE.—In addition, in order to assist the President in his determination whether to enter into any agreement under section 123 of this Act or section 2103 of the Bipartisan Trade Promotion Authority Act of 2002, or how to develop trade policy, priorities or other matters (such as priorities for actions to improve opportunities in foreign markets), the Commission shall make such investigations and reports as may be requested by the President or the United States Trade Representa-

tive on matters such as effects of modification of any barrier to (or other distortion of) international trade on domestic workers, industries or sectors, purchasers, prices and quantities of articles in the United States.

(d) COMMISSION STEPS IN PREPARING ITS ADVICE TO THE PRESIDENT.—In preparing its advice to the President under this section, the Commission shall to the extent practicable—

(1) investigate conditions, causes, and effects relating to competition between the foreign industries producing the articles or services in question and the domestic industries producing the like or directly competitive articles or services;

(2) analyze the production, trade, and consumption of each like or directly competitive article or service, taking into consideration employment, profit levels, and use of productive facilities with respect to the domestic industries concerned, and such other economic factors in such industries as it considers relevant, including prices, wages, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production;

(3) describe the probable nature and extent of any significant change in employment, profit levels, and use of productive facilities; the overall impact of such or other possible changes on the competitiveness of relevant domestic industries or sectors; and such other conditions as it deems relevant in the domestic industries or sectors concerned which it believes such modifications would cause; and

(4) make special studies (including studies of real wages paid in foreign supplying countries), whenever deemed to be warranted, of particular proposed modifications affecting United States manufacturing, agriculture, mining, fishing, labor, consumers, services, intellectual property and investment, using to the fullest extent practicable United States Government facilities abroad and appropriate personnel of the United States.

(e) PUBLIC HEARING.—In preparing its advice to the President under this section, the Commission shall, after reasonable notice, hold public hearings.

SEC. 132. ADVICE FROM EXECUTIVE DEPARTMENTS AND OTHER SOURCES.

Before any trade agreement is entered into under section 123 of this Act or section 2103 of the Bipartisan Trade Promotion Authority Act of 2002, the President shall seek information and advice with respect to such agreement from the Departments of Agriculture, Commerce, Defense, Interior, Labor, State and the Treasury, from the United States Trade Representative, and from such other sources as he may deem appropriate. Such advice shall be prepared and presented consistent with the provisions of Reorganization Plan Number 3 of 1979, Executive Order Number 12188 and section 141(c).

SEC. 133. PUBLIC HEARINGS.

(a) OPPORTUNITY FOR PRESENTATION OF VIEWS.—In connection with any proposed trade agreement under section 123 of this Act or section 2103 of the Bipartisan Trade Promotion Authority Act of 2002, the President shall afford an opportunity for any interested person to present his views concerning any article on a list pub-

lished under section 131, any matter or article which should be so listed, any concession which should be sought by the United States, or any other matter relevant to such proposed trade agreement. For this purpose, the President shall designate an agency or an interagency committee which shall, after reasonable notice, hold public hearings and prescribe regulations governing the conduct of such hearings. When appropriate, such procedures shall apply to the development of trade policy and priorities.

(b) SUMMARY OF HEARINGS.—The organization holding such hearing shall furnish the President with a summary thereof.

SEC. 134. PREREQUISITES FOR OFFERS.

(a) In any negotiation seeking an agreement under section 123 of this Act or section 2103 of the Bipartisan Trade Promotion Authority Act of 2002, the President may make a formal offer for the modification or continuance of any United States duty, import restrictions, or barriers to (or other distortions of) international trade, the continuance of United States duty-free or excise treatment, or the imposition of additional duties, import restrictions, or other barrier to (or other distortion of) international trade including trade in services, foreign direct investment and intellectual property as covered by this title, with respect to any article or matter only after he has received a summary of the hearings at which an opportunity to be heard with respect to such article has been afforded under section 133. In addition, the President may make an offer for the modification or continuance of any United States duty, the continuance of United States duty-free or excise treatment, or the imposition of additional duties, with respect to any article included in a list published and furnished under section 131(a), only after he has received advice concerning such article from the Commission under section 131(b), or after the expiration of the 6-month or 90-day period provided for in that section, as appropriate, whichever first occurs.

(b) In determining whether to make offers described in subsection (a) in the course of negotiating any trade agreement under section 2103 of the Bipartisan Trade Promotion Authority Act of 2002, and in determining the nature and scope of such offers, the President shall take into account any advice or information provided, or reports submitted, by—

(1) the Commission;

(2) any advisory committee established under section 135; or

(3) any organization that holds public hearings under section 133;

with respect to any article, or domestic industry, that is sensitive, or potentially sensitive, to imports.

SEC. 135. INFORMATION AND ADVICE FROM PRIVATE AND PUBLIC SECTORS.

(a) IN GENERAL.—

(1) The President shall seek information and advice from representative elements of the private sector and the non-Federal governmental sector with respect to—

(A) negotiating objectives and bargaining positions before entering into a trade agreement under this title or section 2103 of the Bipartisan Trade Promotion Authority Act of 2002;

(B) the operation of any trade agreement once entered into, including preparation for dispute settlement panel proceedings to which the United States is a party; and

(C) other matters arising in connection with the development, implementation, and administration of the trade policy of the United States, including those matters referred to in Reorganization Plan Number 3 of 1979 and Executive Order Numbered 12188, and the priorities for actions thereunder.

To the maximum extent feasible, such information and advice on negotiating objectives shall be sought and considered before the commencement of negotiations.

(2) The President shall consult with representative elements of the private sector and the non-Federal governmental sector on the overall current trade policy of the United States. The consultations shall include, but are not limited to, the following elements of such policy:

(A) The principal multilateral and bilateral trade negotiating objectives and the progress being made toward their achievement.

(B) The implementation, operation, and effectiveness of recently concluded multilateral and bilateral trade agreements and resolution of trade disputes.

(C) The actions taken under the trade laws of the United States and the effectiveness of such actions in achieving trade policy objectives.

(D) Important developments in other areas of trade for which there must be developed a proper policy response.

(3) The President shall take the advice received through consultation under paragraph (2) into account in determining the importance which should be placed on each major objective and negotiating position that should be adopted in order to achieve the overall trade policy of the United States.

(b) ADVISORY COMMITTEE FOR TRADE POLICY AND NEGOTIATIONS.—

(1) The President shall establish an Advisory Committee for Trade Policy and Negotiations to provide overall policy advice on matters referred to in subsection (a). The committee shall be composed of not more than 45 individuals and shall include representatives of non-Federal governments, labor, industry, agriculture, small business, service industries, retailers, nongovernmental environmental and conservation organizations, and consumer interests. The committee shall be broadly representative of the key sectors and groups of the economy, particularly with respect to those sectors and groups which are affected by trade. Members of the committee shall be recommended by the United States Trade Representative and appointed by the President for a term of 4 years or until the committee is scheduled to expire. An individual may be reappointed to committee for any number of terms. Appointments to the Committee shall be made without regard to political affiliation.

(2) The committee shall meet as needed at the call of the United States Trade Representative or at the call of two-thirds of the members of the committee. The chairman of the com-

mittee shall be elected by the committee from among its members.

(3) The United States Trade Representative shall make available to the committee such staff, information, personnel, and administrative services and assistance as it may reasonably require to carry out its activities.

(c) GENERAL POLICY, SECTORAL, OR FUNCTIONAL ADVISORY COMMITTEES.—

(1) The President may establish individual general policy advisory committees for industry, labor, agriculture, services, investment, defense, and other interests, as appropriate, to provide general policy advice on matters referred to in subsection (a). Such committees shall, insofar as is practicable, be representative of all industry, labor, agricultural, service, investment, defense, and other interests, respectively, including small business interests, and shall be organized by the United States Trade Representative and the Secretaries of Commerce, Defense, Labor, Agriculture, the Treasury, or other executive departments, as appropriate. The members of such committees shall be appointed by the United States Trade Representative in consultation with such Secretaries.

(2) The President shall establish such sectoral or functional advisory committees as may be appropriate. Such committees shall, insofar as is practicable, be representative of all industry, labor, agricultural, or service interests (including small business interests) in the sector or functional areas concerned. In organizing such committees, the United States Trade Representative and the Secretaries of Commerce, Labor, Agriculture, the Treasury, or other executive departments, as appropriate, shall—

(A) consult with interested private organizations; and

(B) take into account such factors as—

(i) patterns of actual and potential competition between United States industry and agriculture and foreign enterprise in international trade,

(ii) the character of the nontariff barriers and other distortions affecting such competition,

(iii) the necessity for reasonable limits on the number of such advisory committees,

(iv) the necessity that each committee be reasonably limited in size, and

(v) in the case of each sectoral committee, that the product lines covered by each committee be reasonably related.

(3) The President—

(A) may, if necessary, establish policy advisory committees representing non-Federal governmental interests to provide policy advice—

(i) on matters referred to in subsection (a), and

(ii) with respect to implementation of trade agreements, and

(B) shall include as members of committees established under subparagraph (A) representatives of non-Federal governmental interests if he finds such inclusion appro-

priate after consultation by the United States Trade Representative with such representatives.

(4) Appointments to each committee established under paragraph (1), (2), or (3) shall be made without regard to political affiliation.

(d) POLICY, TECHNICAL, AND OTHER ADVICE AND INFORMATION.—Committees established under subsection (c) shall meet at the call of the United States Trade Representative and the Secretaries of Agriculture, Commerce, Labor, Defense, or other executive departments, as appropriate, to provide policy advice, technical advice and information, and advice on other factors relevant to the matters referred to in subsection (a).

(e) MEETING OF ADVISORY COMMITTEES AT CONCLUSION OF NEGOTIATIONS.—

(1) The Advisory Committee for Trade Policy and Negotiations, each appropriate policy advisory committee, and each sectoral or functional advisory committee, if the sector or area which such committee represents is affected, shall meet at the conclusion of negotiations for each trade agreement entered into under section 2103 of the Bipartisan Trade Promotion Authority Act of 2002, to provide to the President, to Congress, and to the United States Trade Representative a report on such agreement. Each report that applies to a trade agreement entered into under section 2103 of the Bipartisan Trade Promotion Authority Act of 2002 shall be provided under the preceding sentence not later than the date on which the President notifies the Congress under section 2105(a)(1)(A) of the Bipartisan Trade Promotion Authority Act of 2002 of his intention to enter into that agreement.

(2) The report of the Advisory Committee for Trade Policy and Negotiations and each appropriate policy advisory committee shall include an advisory opinion as to whether and to what extent the agreement promotes the economic interests of the United States and achieves the applicable overall and principal negotiating objectives set forth in section 2102 of the Bipartisan Trade Promotion Authority Act of 2002, as appropriate.

(3) The report of the appropriate sectoral or functional committee under paragraph (1) shall include an advisory opinion as to whether the agreement provides for equity and reciprocity within the sector or within the functional area.

(f) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act apply—

(1) to the Advisory Committee for Trade Policy and Negotiations established under subsection (b); and

(2) to all other advisory committees which may be established under subsection (c) of this section, except that—

(A) the meetings of advisory committees established under subsections (b) and (c) of this section shall be exempt from the requirements of subsections (a) and (b) of sections 10 and 11 of the Federal Advisory Committee Act (relating to open meetings, public notice, public participation, and public availability of documents), whenever and to the extent it is determined by the President or the President's designee that such meetings will be concerned

with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives, or bargaining positions with respect to matters referred to in subsection (a) of this section, and that meetings may be called of such special task forces, plenary meetings of chairmen, or other such groups made up of members of the committees established under subsections (b) and (c) of this section; and

(B) notwithstanding subsection (a)(2) of section 14 of the Federal Advisory Committee Act, any committee established under subsection (b) or (c) may, in the discretion of the President or the President's designee, terminate not later than the expiration of the 4-year period beginning on the date of its establishment.

(g) TRADE SECRETS AND CONFIDENTIAL INFORMATION.—

(1) Trade secrets and commercial or financial information which is privileged or confidential, and which is submitted in confidence by the private sector or non-Federal government to officers or employees of the United States in connection with trade negotiations, may be disclosed upon request to—

(A) officers and employees of the United States designated by the United States Trade Representative;

(B) members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate who are designated as official advisers under section 161(a)(1) or are designated by the chairmen of either such committee under section 161(b)(3)(A) and staff members of either such committee designated by the chairmen under section 161(b)(3)(A); and

(C) members of any committee of the House or Senate or any joint committee of Congress who are designated as advisers under section 161(a)(2) or designated by the chairman of such committee under section 161(b)(3)(B) and staff members of such committee designated under section 161(b)(3)(B), but disclosure may be made under this subparagraph only with respect to trade secrets or commercial or financial information that is relevant to trade policy matters or negotiations that are within the legislative jurisdiction of such committee;

for use in connection with matters referred to in subsection (a).

(2) Information other than that described in paragraph (1), and advice submitted in confidence by the private sector or non-Federal government to officers or employees of the United States, to the Advisory Committee for Trade Policy and Negotiations, or to any advisory committee established under subsection (c), in connection with matters referred to in subsection (a), may be disclosed upon request to—

(A) the individuals described in paragraph (1); and

(B) the appropriate advisory committee established under this section.

(3) Information submitted in confidence by officers or employees of the United States to the Advisory Committee for Trade Policy and Negotiations, or to any advisory committee established under subsection (c), may be disclosed in accord-

ance with rules issued by the United States Trade Representative and the Secretaries of Commerce, Labor, Defense, Agriculture, or other executive departments, as appropriate, after consultation with the relevant advisory committees established under subsection (c). Such rules shall define the categories of information which require restricted or confidential handling by such committee considering the extent to which public disclosure of such information can reasonably be expected to prejudice the development of trade policy, priorities, or United States negotiating objectives. Such rules shall, to the maximum extent feasible, permit meaningful consultations by advisory committee members with persons affected by matters referred to in subsection (a).

(h) ADVISORY COMMITTEE SUPPORT.—The United States Trade Representative, and the Secretaries of Commerce, Labor, Defense, Agriculture, the Treasury, or other executive departments, as appropriate, shall provide such staff, information, personnel, and administrative services and assistance to advisory committees established under subsection (c) as such committees may reasonably require to carry out their activities.

(i) CONSULTATION WITH ADVISORY COMMITTEES; PROCEDURES; NONACCEPTANCE OF COMMITTEE ADVICE OR RECOMMENDATIONS.—It shall be the responsibility of the United States Trade Representative, in conjunction with the Secretaries of Commerce, Labor, Agriculture, the Treasury, or other executive departments, as appropriate, to adopt procedures for consultation with and obtaining information and advice from the advisory committees established under subsection (c) on a continuing and timely basis. Such consultation shall include the provision of information to each advisory committee as to—

(1) significant issues and developments; and

(2) overall negotiating objectives and positions of the United States and other parties;

with respect to matters referred to in subsection (a). The United States Trade Representative shall not be bound by the advice or recommendations of such advisory committees, but shall inform the advisory committees of significant departures from such advice or recommendations made. In addition, in the course of consultations with the Congress under this title, information on the advice and information provided by advisory committees shall be made available to congressional advisers.

(j) PRIVATE ORGANIZATIONS OR GROUPS.—In addition to any advisory committee established under this section, the President shall provide adequate, timely and continuing opportunity for the submission on an informal basis (and, if such information is submitted under the provisions of subsection (g), on a confidential basis) by private organizations or groups, representing government, labor, industry, agriculture, small business, service industries, consumer interests, and others, of statistics, data and other trade information, as well as policy recommendations, pertinent to any matter referred to in subsection (a).

(k) SCOPE OF PARTICIPATION BY MEMBERS OF ADVISORY COMMITTEES.—Nothing contained in this section shall be construed to authorize or permit any individual to participate directly in any negotiation of any matters referred to in subsection (a). To the max-

imum extent practicable, the members of the committees established under subsections (b) and (c), and other appropriate parties, shall be informed and consulted before and during any such negotiations. They may be designated as advisors to a negotiating delegation, and may be permitted to participate in international meetings to the extent the head of the United States delegation deems appropriate. However, they may not speak or negotiate for the United States.

(l) ADVISORY COMMITTEES ESTABLISHED BY DEPARTMENT OF AGRICULTURE.—The provisions of title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to any advisory committee established under subsection (c).

(m) NON-FEDERAL GOVERNMENT DEFINED.—As used in this section, the term "non-Federal government" means—

(1) any State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof; or

(2) any agency or instrumentality of any entity described in paragraph (1).

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CHAPTER 4—OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SEC. 141. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

(a) There is established within the Executive Office of the President the Office of the United States Trade Representative (hereinafter in this section referred to as the "Office").

(b)(1) The Office shall be headed by the United States Trade Representative who shall be appointed by the President, by and with the advice and consent of the Senate. As an exercise of the rulemaking power of the Senate, any nomination of the United States Trade Representative submitted to the Senate for confirmation, and referred to a committee, shall be referred to the Committee on Finance. The United States Trade Representative shall hold office at the pleasure of the President, shall be entitled to receive the same allowances as a chief of mission, and shall have the rank of Ambassador Extraordinary and Plenipotentiary.

(2) There shall be in the Office three Deputy United States Trade Representatives and one Chief Agricultural Negotiator who shall be appointed by the President, by and with the advice and consent of the Senate. As an exercise of the rulemaking power of the Senate, any nomination of a Deputy United States Trade Representative or the Chief Agricultural Negotiator submitted to the Senate for its advice and consent, and referred to a committee, shall be referred to the Committee on Finance. Each Deputy United States Trade Representative and the Chief Agricultural Negotiator shall hold office at the pleasure of the President and shall have the rank of Ambassador.

(3) A person who has directly represented, aided, or advised a foreign entity (as defined by section 207(f)(3) of title 18, United States Code) in any trade negotiation, or trade dispute, with the United States may not be appointed as United States Trade Representative or as a Deputy United States Trade Representative.

(c)(1) The United States Trade Representative shall—

(A) have primary responsibility for developing, and for coordinating the implementation of, United States international trade policy, including commodity matters, and, to the extent they are related to international trade policy, direct investment matters;

(B) serve as the principal advisor to the President on international trade policy and shall advise the President on the impact of other policies of the United States Government on international trade;

(C) have lead responsibility for the conduct of, and shall be the chief representative of the United States for, international trade negotiations, including all negotiations on any matter considered under the auspices of the World Trade Organization, commodity and direct investment negotiations, in which the United States participates;

(D) issue and coordinate policy guidance to departments and agencies on basic issues of policy and interpretation arising in the exercise of international trade functions, including any matter considered under the auspices of the World Trade Organization, to the extent necessary to assure the coordination of international trade policy and consistent with any other law;

(E) act as the principal spokesman of the President on international trade;

(F) report directly to the President and the Congress regarding, and be responsible to the President and the Congress for the administration of, trade agreements programs;

(G) advise the President and Congress with respect to nontariff barriers to international trade, international commodity agreements, and other matters which are related to the trade agreements programs;

(H) be responsible for making reports to Congress with respect to matters referred to in subparagraphs (C) and (F);

(I) be chairman of the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962, and shall consult with and be advised by such organization in the performance of his functions; and

(J) in addition to those functions that are delegated to the United States Trade Representative as of the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988, be responsible for such other functions as the President may direct.

(2) It is the sense of Congress that the United States Trade Representative should—

(A) be the senior representative on any body that the President may establish for the purpose of providing to the President advice on overall economic policies in which international trade matters predominate; and

(B) be included as a participant in all economic summit and other international meetings at which international trade is a major topic.

(3) The United States Trade Representative may—

(A) delegate any of his functions, powers, and duties to such officers and employees of the Office as he may designate; and

(B) authorize such successive redelegations of such functions, powers, and duties to such officers and employees of the Office as he may deem appropriate.

(4) Each Deputy United States Trade Representative shall have as his principal function the conduct of trade negotiations under this Act and shall have such other functions as the United States Trade Representative may direct.

(5) The principal function of the Chief Agricultural Negotiator shall be to conduct trade negotiations and to enforce trade agreements relating to United States agricultural products and services. The Chief Agricultural Negotiator shall be a vigorous advocate on behalf of United States agricultural interests. The Chief Agricultural Negotiator shall perform such other functions as the United States Trade Representative may direct.

(d)(1) In carrying out subsection (c) with respect to unfair trade practices, the United States Trade Representative shall—

(A) coordinate the application of interagency resources to specific unfair trade practice cases;

(B) identify, and refer to the appropriate Federal department or agency for consideration with respect to action, each act, policy, or practice referred to in the report required under section 181(b), or otherwise known to the United States Trade Representative on the basis of other available information, that may be an unfair trade practice that either—

(i) is considered to be inconsistent with the provisions of any trade agreement and has a significant adverse impact on United States commerce, or

(ii) has a significant adverse impact on domestic firms or industries that are either too small or financially weak to initiate proceedings under the trade laws;

(C) identify practices having a significant adverse impact on United States commerce that the attainment of United States negotiating objectives would eliminate; and

(D) identify, on a biennial basis, those United States Government policies and practices that, if engaged in by a foreign government, might constitute unfair trade practices under United States law.

(2) For purposes of carrying out paragraph (1), the United States Trade Representative shall be assisted by an interagency unfair trade practices advisory committee composed of the Trade Representative, who shall chair the committee, and senior representatives of the following agencies, appointed by the respective heads of those agencies:

(A) The Bureau of Economics and Business Affairs of the Department of State.

(B) The United States and Foreign Commercial Services of the Department of Commerce.

(C) The International Trade Administration (other than the United States and Foreign Commercial Service) of the Department of Commerce.

(D) The Foreign Agricultural Service of the Department of Agriculture.

The United States Trade Representative may also request the advice of the United States International Trade Commission regarding the carrying out of paragraph (1).

(3) For purposes of this subsection, the term "unfair trade practice" means any act, policy, or practice that—

(A) may be a subsidy with respect to which countervailing duties may be imposed under subtitle A of title VII;

(B) may result in the sale or likely sale of foreign merchandise with respect to which antidumping duties may be imposed under subtitle B of title VII;

(C) may be either an unfair method of competition, or an unfair act in the importation of articles into the United States, that is unlawful under section 337; or

(D) may be an act, policy, or practice of a kind with respect to which action may be taken under title III of the Trade Act of 1974.

(e) The United States Trade Representative may, for the purpose of carrying out his functions under this section—

(1) subject to the civil service and classification laws, select, appoint, employ, and fix the compensation of such officers and employees as are necessary and prescribe their authority and duties, except that not more than 20 individuals may be employed without regard to any provision of law regulating the employment or compensation at rates not to exceed the rate of pay for level IV of the Executive Schedule in section 5314 of title 5, United States Code;

(2) employ experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate individuals so employed for each day (including traveltime) at rates not in excess of the maximum rate of pay for grade GS–18 as provided in section 5332 of title 5, United States Code, and while such experts and consultants are so serving away from their homes or regular place of business, to pay such employees travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently;

(3) promulgate such rules and regulations as may be necessary to carry out the functions, powers and duties vested in him;

(4) utilize, with their consent, the services, personnel, and facilities of other Federal agencies;

(5) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the work of the Office and on such terms as the United States Trade Representative may deem appropriate, with any agency or instrumentality of the United States, or with any public or private person, firm, association, corporation, or institution;

(6) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31, United States Code;

(7) adopt an official seal, which shall be judicially noticed; and

(8) pay for expenses approved by him for official travel without regard to the Federal Travel Regulations or to the provi-

sions of subchapter I of chapter 57 of title 5, United States Code (relating to rates of per diem allowances in lieu of subsistence expenses);

(9) accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Office;

(10) acquire, by purchase or exchange, not more than two passenger motor vehicles for use abroad, except that no vehicle may be required at a cost exceeding $9,500; and

(11) provide, where authorized by law, copies of documents to persons at cost, except that any funds so received shall be credited to, and be available for use from, the account from which expenditures relating thereto were made.

(f) The United States Trade Representative shall, to the extent he deems it necessary for the proper administration and execution of the trade agreements programs of the United States, draw upon the resources of, and consult with, Federal agencies in connection with the performance of his functions.

(g)(1)(A) There are authorized to be appropriated to the Office for the purposes of carrying out its functions the following:

(i) $32,300,000 for fiscal year 2003.

(ii) $33,108,000 for fiscal year 2004.

(B) Of the amounts authorized to be appropriated under subparagraph (A) for any fiscal year—

(i) not to exceed $98,000 may be used for entertainment and representation expenses of the Office; and

(ii) not to exceed $1,000,000 shall remain available until expended.

(2) For the fiscal year beginning October 1, 1982, and for each fiscal year thereafter, there are authorized to be appropriated to the Office for the salaries of its officers and employees such additional sums as may be provided by law to reflect pay rate changes made in accordance with the Federal Pay Comparability Act of 1970.

(3) By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the United States Trade Representative shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the Office to carry out its functions.

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CHAPTER 5—CONGRESSIONAL PROCEDURES WITH RESPECT TO PRESIDENTIAL ACTIONS

SEC. 151. BILLS IMPLEMENTING TRADE AGREEMENTS ON NONTARIFF BARRIERS AND RESOLUTIONS APPROVING COMMERCIAL AGREEMENTS WITH COMMUNIST COUNTRIES.

(a) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This section and sections 152 and 153 are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they are deemed a part of the rules of each House, respectively, but

applicable only with respect to the procedure to be followed in that House in the case of implementing bills described in subsection (b)(1), implementing revenue bills described in subsection (b)(2), approval resolutions described in subsection (b)(3), and resolutions described in subsections 152(a) and 153(a); and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(b) DEFINITIONS.—For purposes of this section—

(1) The term "implementing bill" means only a bill of either House of Congress which is introduced as provided in subsection (c) with respect to one or more trade agreements, or with respect to an extension described in section 282(c)(3) of the Uruguay Round Agreements Act, submitted to the House of Representatives and the Senate under section 102 of this Act, section 282 of the Uruguay Round Agreements Act, or section 2105(a)(1) of the Bipartisan Trade Promotion Authority Act of 2002 and which contains—

(A) a provision approving such trade agreement or agreements or such extension,

(B) a provision approving the statement of administrative action (if any) proposed to implement such trade agreement or agreements, and

(C) if changes in existing laws or new statutory authority is required to implement such trade agreement or agreements or such extension, provisions, necessary or appropriate to implement such trade agreement or agreements or such extension, either repealing or amending existing laws or providing new statutory authority.

(2) The term "implementing revenue bill or resolution" means an implementing bill, or approval resolution, which contains one or more revenue measures by reason of which it must originate in the House of Representatives.

(3) The term "approval resolution" means only a joint resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: "That the Congress approves the extension of nondiscriminatory treatment with respect to the products of _____ transmitted by the President to the Congress on _____.", the first blank space being filled with the name of the country involved and the second blank space being filled with the appropriate date.

(c) INTRODUCTION AND REFERRAL.—

(1) On the day on which a trade agreement or extension is submitted to the House of Representatives and the Senate under section 102, section 282 of the Uruguay Round Agreements Act, or section 2105(a)(1) of the Bipartisan Trade Promotion Authority Act of 2002, the implementing bill submitted by the President with respect to such trade agreement or extension shall be introduced (by request) in the House by the majority leader of the House, for himself and the minority leader of the House, or by Members of the House designated

by the majority leader and minority leader of the House; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such a trade agreement or extension is submitted, the implementing bill shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which the House is in session. Such bills shall be referred by the Presiding Officers of the respective Houses to the appropriate committee, or, in the case of a bill containing provisions within the jurisdiction of two or more committees, jointly to such committees for consideration of those provisions within their respective jurisdictions.

(2) On the day on which a bilateral commercial agreement, entered into under the IV of this Act after the date of the enactment of this Act, is transmitted to the House of Representatives and the Senate, an approval resolution with respect to such agreement shall be introduced (by request) in the House by the majority leader of the House, for himself and the minority leader of the House, or by Members of the House designated by the majority leader and minority leader of the House; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such an agreement is transmitted, the approval resolution with respect to such agreement shall be introduced in that House, as provided in the proceeding sentence, on the first day thereafter on which that House is in session. The approval resolution introduced in the House shall be referred to the Committee on Ways and Means and the approval resolution introduced in the Senate shall be referred to the Committee on Finance.

(d) AMENDMENTS PROHIBITED.—No amendment to an implementing bill or approval resolution shall be in order in either the House of Representatives or the Senate; and no motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this subsection by unanimous consent.

(e) PERIOD FOR COMMITTEE AND FLOOR CONSIDERATION.—

(1) Except as provided in paragraph (2), if the committee or committees of either House to which an implementing bill or approval resolution has been referred have not reported it at the close of the 45th day after its introduction, such committee or committees shall be automatically discharged from further consideration of the bill or resolution and it shall be placed on the appropriate calendar. A vote on final passage of the bill or resolution shall be taken in each House on or before the close of the 15th day after the bill or resolution is reported by the committee or committees of that House to which it was referred, or after such committee or committees have been discharged from further consideration of the bill or resolution. If prior to the passage by one House of an implementing bill or

approval resolution of that House, that House receives the same implementing bill or approval resolution from the other House, then—

(A) the procedure in that House shall be the same as if no implementing bill or approval resolution had been received from the other House; but

(B) the vote on final passage shall be on the implementing bill or approval resolution of the other House.

(2) The provisions of paragraph (1) shall not apply in the Senate to an implementing revenue bill or resolution. An implementing revenue bill or resolution received from the House shall be referred to the appropriate committee or committees of the Senate. If such committee or committees have not reported such bill or resolution at the close of the 15th day after its receipt by the Senate (or, if later, before the close of the 45th day after the corresponding implementing revenue bill or resolution was introduced in the Senate), such committee or committees shall be automatically discharged from further consideration of such bill or resolution and it shall be placed on the calendar. A vote on final passage of such bill or resolution shall be taken in the Senate on or before the close of the 15th day after such bill or resolution is reported by the committee or committees of the Senate to which it was referred, or after such committee or committees have been discharged from further consideration of such bill or resolution.

(3) For purpose of paragraphs (1) and (2), in computing a number of days in either House, there shall be excluded any day on which that House is not in session.

(f) FLOOR CONSIDERATION IN THE HOUSE.—

(1) A motion in the House of Representatives to proceed to the consideration of an implementing bill or approval resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate in the House of Representatives on an implementing bill or approval resolution shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the bill or resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit an implementing bill or approval resolution or to move to reconsider the vote by which an implementing bill or approval resolution is agreed to or disagreed to.

(3) Motions to postpone, made in the House of Representatives with respect to the consideration of an implementing bill or approval resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(4) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to an implementing bill or approval resolution shall be decided without debate.

(5) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of an implementing bill or approval resolution shall be governed by the Rules of

the House of Representatives applicable to other bills and resolutions in similar circumstances.

(g) FLOOR CONSIDERATION IN THE SENATE.—

(1) A motion in the Senate to proceed to the consideration of an implementing bill or approval resolution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate in the Senate on an implementing bill or approval resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motion or appeal in connection with an implementing bill or approval resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill or resolution, except that in the event the manager of the bill or resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of an implementing bill or approval resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion in the Senate to further limit debate is not debatable. A motion to recommit an implementing bill or approval resolution is not in order.

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CHAPTER 6—CONGRESSIONAL LIAISON AND REPORTS

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SEC. 162. TRANSMISSION OF AGREEMENTS TO CONGRESS.

(a) As soon as practicable after a trade agreement entered into under section 123 or 124 or under section 2103 of the Bipartisan Trade Promotion Authority Act of 2002 has entered into force with respect to the United States, the President shall, if he has not previously done so, transmit a copy of such trade agreement to each House of the Congress together with a statement, in the light of the advice of the International Trade Commission under section 131(b), if any, and of other relevant considerations, of his reasons for entering into the agreement.

(b) The President shall transmit to each Member of the Congress a summary of the information required to be transmitted to each House under subsection (a). For purposes of this subsection, the term "Member" includes any Delegate or Resident Commissioner.

* * * * * * *

B. CHANGES IN EXISTING LAW PROPOSED BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(B) of rule XIII of the Rules of the House of Representatives, changes in existing law proposed by

the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e)(1)(B) of rule XIII of the Rules of the House of Representatives, changes in existing law proposed by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

TRADE ACT OF 1974

* * * * * * *

TITLE I—NEGOTIATING AND OTHER AUTHORITY

* * * * * * *

CHAPTER 3—HEARINGS AND ADVICE CONCERNING NEGOTIATIONS

SEC. 131. ADVICE FROM INTERNATIONAL TRADE COMMISSION.

(a) LISTS OF ARTICLES WHICH MAY BE CONSIDERED FOR ACTION.—

(1) In connection with any proposed trade agreement under section 123 of this Act or [section 2103(a) or (b) of the Bipartisan Trade Promotion Authority Act of 2002] *subsection (a) or (b) of section 3 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015*, the President shall from time to time publish and furnish the International Trade Commission (hereafter in this section referred to as the "Commission") with lists of articles which may be considered for modification or continuance of United States duties, continuance of United States duty-free or excise treatment, or additional duties. In the case of any article with respect to which consideration may be given to reducing or increasing the rate of duty, the list shall specify the provision of this subchapter under which such consideration may be given.

(2) In connection with any proposed trade agreement under [section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002] *section 3(b) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015*, the President may from time to time publish and furnish the Commission with lists of nontariff matters which may be considered for modification.

(b) ADVICE TO PRESIDENT BY COMMISSION.—Within 6 months after receipt of a list under subsection (a) or, in the case of a list submitted in connection with a trade agreement, within 90 days after receipt of such list, the Commission shall advise the President, with respect to each article or nontariff matter, of its judg-

ment as to the probable economic effect of modification of the tariff or nontariff measure on industries producing like or directly competitive articles and on consumers, so as to assist the President in making an informed judgment as to the impact which might be caused by such modifications on United States interests, such as sectors involved in manufacturing, agriculture, mining, fishing, services, intellectual property, investment, labor, and consumers. Such advice may include in the case of any article the advice of the Commission as to whether any reduction in the rate of duty should take place over a longer period of time than the minimum period provided for in [section 2103(a)(3)(A) of the Bipartisan Trade Promotion Authority Act of 2002] *section 3(a)(4)(A) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015*.

(c) ADDITIONAL INVESTIGATIONS AND REPORTS REQUESTED BY THE PRESIDENT OR THE TRADE REPRESENTATIVE.—In addition, in order to assist the President in his determination whether to enter into any agreement under section 123 of this Act or [section 2103 of the Bipartisan Trade Promotion Authority Act of 2002] *section 3(a) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015*, or how to develop trade policy, priorities or other matters (such as priorities for actions to improve opportunities in foreign markets), the Commission shall make such investigations and reports as may be requested by the President or the United States Trade Representative on matters such as effects of modification of any barrier to (or other distortion of) international trade on domestic workers, industries or sectors, purchasers, prices and quantities of articles in the United States.

(d) COMMISSION STEPS IN PREPARING ITS ADVICE TO THE PRESIDENT.—In preparing its advice to the President under this section, the Commission shall to the extent practicable—

(1) investigate conditions, causes, and effects relating to competition between the foreign industries producing the articles or services in question and the domestic industries producing the like or directly competitive articles or services;

(2) analyze the production, trade, and consumption of each like or directly competitive article or service, taking into consideration employment, profit levels, and use of productive facilities with respect to the domestic industries concerned, and such other economic factors in such industries as it considers relevant, including prices, wages, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production;

(3) describe the probable nature and extent of any significant change in employment, profit levels, and use of productive facilities; the overall impact of such or other possible changes on the competitiveness of relevant domestic industries or sectors; and such other conditions as it deems relevant in the domestic industries or sectors concerned which it believes such modifications would cause; and

(4) make special studies (including studies of real wages paid in foreign supplying countries), whenever deemed to be warranted, of particular proposed modifications affecting United States manufacturing, agriculture, mining, fishing, labor, consumers, services, intellectual property and investment, using to

the fullest extent practicable United States Government facilities abroad and appropriate personnel of the United States.

(e) PUBLIC HEARING.—In preparing its advice to the President under this section, the Commission shall, after reasonable notice, hold public hearings.

SEC. 132. ADVICE FROM EXECUTIVE DEPARTMENTS AND OTHER SOURCES.

Before any trade agreement is entered into under section 123 of this Act or [section 2103 of the Bipartisan Trade Promotion Authority Act of 2002] *section 3 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015*, the President shall seek information and advice with respect to such agreement from the Departments of Agriculture, Commerce, Defense, Interior, Labor, State and the Treasury, from the United States Trade Representative, and from such other sources as he may deem appropriate. Such advice shall be prepared and presented consistent with the provisions of Reorganization Plan Number 3 of 1979, Executive Order Number 12188 and section 141(c).

SEC. 133. PUBLIC HEARINGS.

(a) OPPORTUNITY FOR PRESENTATION OF VIEWS.—In connection with any proposed trade agreement under section 123 of this Act or [section 2103 of the Bipartisan Trade Promotion Authority Act of 2002] *section 3 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015*, the President shall afford an opportunity for any interested person to present his views concerning any article on a list published under section 131, any matter or article which should be so listed, any concession which should be sought by the United States, or any other matter relevant to such proposed trade agreement. For this purpose, the President shall designate an agency or an interagency committee which shall, after reasonable notice, hold public hearings and prescribe regulations governing the conduct of such hearings. When appropriate, such procedures shall apply to the development of trade policy and priorities.

(b) SUMMARY OF HEARINGS.—The organization holding such hearing shall furnish the President with a summary thereof.

SEC. 134. PREREQUISITES FOR OFFERS.

(a) In any negotiation seeking an agreement under section 123 of this Act or [section 2103 of the Bipartisan Trade Promotion Authority Act of 2002] *section 3 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015*, the President may make a formal offer for the modification or continuance of any United States duty, import restrictions, or barriers to (or other distortions of) international trade, the continuance of United States duty-free or excise treatment, or the imposition of additional duties, import restrictions, or other barrier to (or other distortion of) international trade including trade in services, foreign direct investment and intellectual property as covered by this title, with respect to any article or matter only after he has received a summary of the hearings at which an opportunity to be heard with respect to such article has been afforded under section 133. In addition, the President may make an offer for the modification or continuance of any United States duty, the continuance of United States duty-free or excise treatment, or the imposition of additional duties, with re-

spect to any article included in a list published and furnished under section 131(a), only after he has received advice concerning such article from the Commission under section 131(b), or after the expiration of the 6-month or 90-day period provided for in that section, as appropriate, whichever first occurs.

(b) In determining whether to make offers described in subsection (a) in the course of negotiating any trade agreement under ⟦section 2103 of the Bipartisan Trade Promotion Authority Act of 2002⟧ *section 3 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015*, and in determining the nature and scope of such offers, the President shall take into account any advice or information provided, or reports submitted, by—

(1) the Commission;

(2) any advisory committee established under section 135; or

(3) any organization that holds public hearings under section 133;

with respect to any article, or domestic industry, that is sensitive, or potentially sensitive, to imports.

SEC. 135. INFORMATION AND ADVICE FROM PRIVATE AND PUBLIC SECTORS.

(a) IN GENERAL.—

(1) The President shall seek information and advice from representative elements of the private sector and the non-Federal governmental sector with respect to—

(A) negotiating objectives and bargaining positions before entering into a trade agreement under this title or ⟦section 2103 of the Bipartisan Trade Promotion Authority Act of 2002⟧ *section 3 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015*;

(B) the operation of any trade agreement once entered into, including preparation for dispute settlement panel proceedings to which the United States is a party; and

(C) other matters arising in connection with the development, implementation, and administration of the trade policy of the United States, including those matters referred to in Reorganization Plan Number 3 of 1979 and Executive Order Numbered 12188, and the priorities for actions thereunder.

To the maximum extent feasible, such information and advice on negotiating objectives shall be sought and considered before the commencement of negotiations.

(2) The President shall consult with representative elements of the private sector and the non-Federal governmental sector on the overall current trade policy of the United States. The consultations shall include, but are not limited to, the following elements of such policy:

(A) The principal multilateral and bilateral trade negotiating objectives and the progress being made toward their achievement.

(B) The implementation, operation, and effectiveness of recently concluded multilateral and bilateral trade agreements and resolution of trade disputes.

(C) The actions taken under the trade laws of the United States and the effectiveness of such actions in achieving trade policy objectives.

(D) Important developments in other areas of trade for which there must be developed a proper policy response.

(3) The President shall take the advice received through consultation under paragraph (2) into account in determining the importance which should be placed on each major objective and negotiating position that should be adopted in order to achieve the overall trade policy of the United States.

(b) ADVISORY COMMITTEE FOR TRADE POLICY AND NEGOTIATIONS.—

(1) The President shall establish an Advisory Committee for Trade Policy and Negotiations to provide overall policy advice on matters referred to in subsection (a). The committee shall be composed of not more than 45 individuals and shall include representatives of non-Federal governments, labor, industry, agriculture, small business, service industries, retailers, nongovernmental environmental and conservation organizations, and consumer interests. The committee shall be broadly representative of the key sectors and groups of the economy, particularly with respect to those sectors and groups which are affected by trade. Members of the committee shall be recommended by the United States Trade Representative and appointed by the President for a term of 4 years or until the committee is scheduled to expire. An individual may be reappointed to committee for any number of terms. Appointments to the Committee shall be made without regard to political affiliation.

(2) The committee shall meet as needed at the call of the United States Trade Representative or at the call of two-thirds of the members of the committee. The chairman of the committee shall be elected by the committee from among its members.

(3) The United States Trade Representative shall make available to the committee such staff, information, personnel, and administrative services and assistance as it may reasonably require to carry out its activities.

(c) GENERAL POLICY, SECTORAL, OR FUNCTIONAL ADVISORY COMMITTEES.—

(1) The President may establish individual general policy advisory committees for industry, labor, agriculture, services, investment, defense, and other interests, as appropriate, to provide general policy advice on matters referred to in subsection (a). Such committees shall, insofar as is practicable, be representative of all industry, labor, agricultural, service, investment, defense, and other interests, respectively, including small business interests, and shall be organized by the United States Trade Representative and the Secretaries of Commerce, Defense, Labor, Agriculture, the Treasury, or other executive departments, as appropriate. The members of such committees shall be appointed by the United States Trade Representative in consultation with such Secretaries.

(2) The President shall establish such sectoral or functional advisory committees as may be appropriate. Such committees shall, insofar as is practicable, be representative of all industry, labor, agricultural, or service interests (including small business interests) in the sector or functional areas concerned.

In organizing such committees, the United States Trade Representative and the Secretaries of Commerce, Labor, Agriculture, the Treasury, or other executive departments, as appropriate, shall—

(A) consult with interested private organizations; and

(B) take into account such factors as—

(i) patterns of actual and potential competition between United States industry and agriculture and foreign enterprise in international trade,

(ii) the character of the nontariff barriers and other distortions affecting such competition,

(iii) the necessity for reasonable limits on the number of such advisory committees,

(iv) the necessity that each committee be reasonably limited in size, and

(v) in the case of each sectoral committee, that the product lines covered by each committee be reasonably related.

(3) The President—

(A) may, if necessary, establish policy advisory committees representing non-Federal governmental interests to provide policy advice—

(i) on matters referred to in subsection (a), and

(ii) with respect to implementation of trade agreements, and

(B) shall include as members of committees established under subparagraph (A) representatives of non-Federal governmental interests if he finds such inclusion appropriate after consultation by the United States Trade Representative with such representatives.

(4) Appointments to each committee established under paragraph (1), (2), or (3) shall be made without regard to political affiliation.

(d) POLICY, TECHNICAL, AND OTHER ADVICE AND INFORMATION.—Committees established under subsection (c) shall meet at the call of the United States Trade Representative and the Secretaries of Agriculture, Commerce, Labor, Defense, or other executive departments, as appropriate, to provide policy advice, technical advice and information, and advice on other factors relevant to the matters referred to in subsection (a).

(e) MEETING OF ADVISORY COMMITTEES AT CONCLUSION OF NEGOTIATIONS.—

(1) The Advisory Committee for Trade Policy and Negotiations, each appropriate policy advisory committee, and each sectoral or functional advisory committee, if the sector or area which such committee represents is affected, shall meet at the conclusion of negotiations for each trade agreement entered into under ⟦section 2103 of the Bipartisan Trade Promotion Authority Act of 2002⟧ *section 3 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015*, to provide to the President, to Congress, and to the United States Trade Representative a report on such agreement. Each report that applies to a trade agreement entered into under ⟦section 2103 of the Bipartisan Trade Promotion Authority Act of 2002⟧ *section 3 of the Bipartisan Congressional Trade Priorities and*

Accountability Act of 2015 shall be provided under the preceding sentence [not later than the date on which the President notifies the Congress under section 2105(a)(1)(A) of the Bipartisan Trade Promotion Authority Act of 2002] *not later than the date that is 30 days after the date on which the President notifies Congress under section 6(a)(1)(A) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015* of his intention to enter into that agreement.

(2) The report of the Advisory Committee for Trade Policy and Negotiations and each appropriate policy advisory committee shall include an advisory opinion as to whether and to what extent the agreement promotes the economic interests of the United States and achieves the applicable overall and principal negotiating objectives set forth in [section 2102 of the Bipartisan Trade Promotion Authority Act of 2002] *section 2 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015*, as appropriate.

(3) The report of the appropriate sectoral or functional committee under paragraph (1) shall include an advisory opinion as to whether the agreement provides for equity and reciprocity within the sector or within the functional area.

(f) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act apply—

(1) to the Advisory Committee for Trade Policy and Negotiations established under subsection (b); and

(2) to all other advisory committees which may be established under subsection (c) of this section, except that—

(A) the meetings of advisory committees established under subsections (b) and (c) of this section shall be exempt from the requirements of subsections (a) and (b) of sections 10 and 11 of the Federal Advisory Committee Act (relating to open meetings, public notice, public participation, and public availability of documents), whenever and to the extent it is determined by the President or the President's designee that such meetings will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives, or bargaining positions with respect to matters referred to in subsection (a) of this section, and that meetings may be called of such special task forces, plenary meetings of chairmen, or other such groups made up of members of the committees established under subsections (b) and (c) of this section; and

(B) notwithstanding subsection (a)(2) of section 14 of the Federal Advisory Committee Act, any committee established under subsection (b) or (c) may, in the discretion of the President or the President's designee, terminate not later than the expiration of the 4-year period beginning on the date of its establishment.

(g) TRADE SECRETS AND CONFIDENTIAL INFORMATION.—

(1) Trade secrets and commercial or financial information which is privileged or confidential, and which is submitted in confidence by the private sector or non-Federal government to

officers or employees of the United States in connection with trade negotiations, may be disclosed upon request to—

(A) officers and employees of the United States designated by the United States Trade Representative;

(B) members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate who are designated as official advisers under section 161(a)(1) or are designated by the chairmen of either such committee under section 161(b)(3)(A) and staff members of either such committee designated by the chairmen under section 161(b)(3)(A); and

(C) members of any committee of the House or Senate or any joint committee of Congress who are designated as advisers under section 161(a)(2) or designated by the chairman of such committee under section 161(b)(3)(B) and staff members of such committee designated under section 161(b)(3)(B), but disclosure may be made under this subparagraph only with respect to trade secrets or commercial or financial information that is relevant to trade policy matters or negotiations that are within the legislative jurisdiction of such committee;

for use in connection with matters referred to in subsection (a).

(2) Information other than that described in paragraph (1), and advice submitted in confidence by the private sector or non-Federal government to officers or employees of the United States, to the Advisory Committee for Trade Policy and Negotiations, or to any advisory committee established under subsection (c), in connection with matters referred to in subsection (a), may be disclosed upon request to—

(A) the individuals described in paragraph (1); and

(B) the appropriate advisory committee established under this section.

(3) Information submitted in confidence by officers or employees of the United States to the Advisory Committee for Trade Policy and Negotiations, or to any advisory committee established under subsection (c), may be disclosed in accordance with rules issued by the United States Trade Representative and the Secretaries of Commerce, Labor, Defense, Agriculture, or other executive departments, as appropriate, after consultation with the relevant advisory committees established under subsection (c). Such rules shall define the categories of information which require restricted or confidential handling by such committee considering the extent to which public disclosure of such information can reasonably be expected to prejudice the development of trade policy, priorities, or United States negotiating objectives. Such rules shall, to the maximum extent feasible, permit meaningful consultations by advisory committee members with persons affected by matters referred to in subsection (a).

(h) ADVISORY COMMITTEE SUPPORT.—The United States Trade Representative, and the Secretaries of Commerce, Labor, Defense, Agriculture, the Treasury, or other executive departments, as appropriate, shall provide such staff, information, personnel, and administrative services and assistance to advisory committees estab-

lished under subsection (c) as such committees may reasonably require to carry out their activities.

(i) CONSULTATION WITH ADVISORY COMMITTEES; PROCEDURES; NONACCEPTANCE OF COMMITTEE ADVICE OR RECOMMENDATIONS.—It shall be the responsibility of the United States Trade Representative, in conjunction with the Secretaries of Commerce, Labor, Agriculture, the Treasury, or other executive departments, as appropriate, to adopt procedures for consultation with and obtaining information and advice from the advisory committees established under subsection (c) on a continuing and timely basis. Such consultation shall include the provision of information to each advisory committee as to—

(1) significant issues and developments; and

(2) overall negotiating objectives and positions of the United States and other parties;

with respect to matters referred to in subsection (a). The United States Trade Representative shall not be bound by the advice or recommendations of such advisory committees, but shall inform the advisory committees of significant departures from such advice or recommendations made. In addition, in the course of consultations with the Congress under this title, information on the advice and information provided by advisory committees shall be made available to congressional advisers.

(j) PRIVATE ORGANIZATIONS OR GROUPS.—In addition to any advisory committee established under this section, the President shall provide adequate, timely and continuing opportunity for the submission on an informal basis (and, if such information is submitted under the provisions of subsection (g), on a confidential basis) by private organizations or groups, representing government, labor, industry, agriculture, small business, service industries, consumer interests, and others, of statistics, data and other trade information, as well as policy recommendations, pertinent to any matter referred to in subsection (a).

(k) SCOPE OF PARTICIPATION BY MEMBERS OF ADVISORY COMMITTEES.—Nothing contained in this section shall be construed to authorize or permit any individual to participate directly in any negotiation of any matters referred to in subsection (a). To the maximum extent practicable, the members of the committees established under subsections (b) and (c), and other appropriate parties, shall be informed and consulted before and during any such negotiations. They may be designated as advisors to a negotiating delegation, and may be permitted to participate in international meetings to the extent the head of the United States delegation deems appropriate. However, they may not speak or negotiate for the United States.

(l) ADVISORY COMMITTEES ESTABLISHED BY DEPARTMENT OF AGRICULTURE.—The provisions of title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to any advisory committee established under subsection (c).

(m) NON-FEDERAL GOVERNMENT DEFINED.—As used in this section, the term "non-Federal government" means—

(1) any State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof; or

(2) any agency or instrumentality of any entity described in paragraph (1).

CHAPTER 4—OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SEC. 141. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

(a) There is established within the Executive Office of the President the Office of the United States Trade Representative (hereinafter in this section referred to as the "Office").

(b)(1) The Office shall be headed by the United States Trade Representative who shall be appointed by the President, by and with the advice and consent of the Senate. As an exercise of the rulemaking power of the Senate, any nomination of the United States Trade Representative submitted to the Senate for confirmation, and referred to a committee, shall be referred to the Committee on Finance. The United States Trade Representative shall hold office at the pleasure of the President, shall be entitled to receive the same allowances as a chief of mission, and shall have the rank of Ambassador Extraordinary and Plenipotentiary.

(2) There shall be in the Office three Deputy United States Trade Representatives and one Chief Agricultural Negotiator who shall be appointed by the President, by and with the advice and consent of the Senate. As an exercise of the rulemaking power of the Senate, any nomination of a Deputy United States Trade Representative or the Chief Agricultural Negotiator submitted to the Senate for its advice and consent, and referred to a committee, shall be referred to the Committee on Finance. Each Deputy United States Trade Representative and the Chief Agricultural Negotiator shall hold office at the pleasure of the President and shall have the rank of Ambassador.

(3) There shall be in the Office one Chief Transparency Officer. The Chief Transparency Officer shall consult with Congress on transparency policy, coordinate transparency in trade negotiations, engage and assist the public, and advise the United States Trade Representative on transparency policy.

[(3)**]** *(4)* A person who has directly represented, aided, or advised a foreign entity (as defined by section 207(f)(3) of title 18, United States Code) in any trade negotiation, or trade dispute, with the United States may not be appointed as United States Trade Representative or as a Deputy United States Trade Representative.

(c)(1) The United States Trade Representative shall—

(A) have primary responsibility for developing, and for coordinating the implementation of, United States international trade policy, including commodity matters, and, to the extent they are related to international trade policy, direct investment matters;

(B) serve as the principal advisor to the President on international trade policy and shall advise the President on the impact of other policies of the United States Government on international trade;

(C) have lead responsibility for the conduct of, and shall be the chief representative of the United States for, international trade negotiations, including all negotiations on any matter considered under the auspices of the World Trade Organiza-

tion, commodity and direct investment negotiations, in which the United States participates;

(D) issue and coordinate policy guidance to departments and agencies on basic issues of policy and interpretation arising in the exercise of international trade functions, including any matter considered under the auspices of the World Trade Organization, to the extent necessary to assure the coordination of international trade policy and consistent with any other law;

(E) act as the principal spokesman of the President on international trade;

(F) report directly to the President and the Congress regarding, and be responsible to the President and the Congress for the administration of, trade agreements programs;

(G) advise the President and Congress with respect to nontariff barriers to international trade, international commodity agreements, and other matters which are related to the trade agreements programs;

(H) be responsible for making reports to Congress with respect to matters referred to in subparagraphs (C) and (F);

(I) be chairman of the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962, and shall consult with and be advised by such organization in the performance of his functions; and

(J) in addition to those functions that are delegated to the United States Trade Representative as of the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988, be responsible for such other functions as the President may direct.

(2) It is the sense of Congress that the United States Trade Representative should—

(A) be the senior representative on any body that the President may establish for the purpose of providing to the President advice on overall economic policies in which international trade matters predominate; and

(B) be included as a participant in all economic summit and other international meetings at which international trade is a major topic.

(3) The United States Trade Representative may—

(A) delegate any of his functions, powers, and duties to such officers and employees of the Office as he may designate; and

(B) authorize such successive redelegations of such functions, powers, and duties to such officers and employees of the Office as he may deem appropriate.

(4) Each Deputy United States Trade Representative shall have as his principal function the conduct of trade negotiations under this Act and shall have such other functions as the United States Trade Representative may direct.

(5) The principal function of the Chief Agricultural Negotiator shall be to conduct trade negotiations and to enforce trade agreements relating to United States agricultural products and services. The Chief Agricultural Negotiator shall be a vigorous advocate on behalf of United States agricultural interests. The Chief Agricultural Negotiator shall perform such other functions as the United States Trade Representative may direct.

(d)(1) In carrying out subsection (c) with respect to unfair trade practices, the United States Trade Representative shall—

(A) coordinate the application of interagency resources to specific unfair trade practice cases;

(B) identify, and refer to the appropriate Federal department or agency for consideration with respect to action, each act, policy, or practice referred to in the report required under section 181(b), or otherwise known to the United States Trade Representative on the basis of other available information, that may be an unfair trade practice that either—

(i) is considered to be inconsistent with the provisions of any trade agreement and has a significant adverse impact on United States commerce, or

(ii) has a significant adverse impact on domestic firms or industries that are either too small or financially weak to initiate proceedings under the trade laws;

(C) identify practices having a significant adverse impact on United States commerce that the attainment of United States negotiating objectives would eliminate; and

(D) identify, on a biennial basis, those United States Government policies and practices that, if engaged in by a foreign government, might constitute unfair trade practices under United States law.

(2) For purposes of carrying out paragraph (1), the United States Trade Representative shall be assisted by an interagency unfair trade practices advisory committee composed of the Trade Representative, who shall chair the committee, and senior representatives of the following agencies, appointed by the respective heads of those agencies:

(A) The Bureau of Economics and Business Affairs of the Department of State.

(B) The United States and Foreign Commercial Services of the Department of Commerce.

(C) The International Trade Administration (other than the United States and Foreign Commercial Service) of the Department of Commerce.

(D) The Foreign Agricultural Service of the Department of Agriculture.

The United States Trade Representative may also request the advice of the United States International Trade Commission regarding the carrying out of paragraph (1).

(3) For purposes of this subsection, the term "unfair trade practice" means any act, policy, or practice that—

(A) may be a subsidy with respect to which countervailing duties may be imposed under subtitle A of title VII;

(B) may result in the sale or likely sale of foreign merchandise with respect to which antidumping duties may be imposed under subtitle B of title VII;

(C) may be either an unfair method of competition, or an unfair act in the importation of articles into the United States, that is unlawful under section 337; or

(D) may be an act, policy, or practice of a kind with respect to which action may be taken under title III of the Trade Act of 1974.

(e) The United States Trade Representative may, for the purpose of carrying out his functions under this section—

(1) subject to the civil service and classification laws, select, appoint, employ, and fix the compensation of such officers and employees as are necessary and prescribe their authority and duties, except that not more than 20 individuals may be employed without regard to any provision of law regulating the employment or compensation at rates not to exceed the rate of pay for level IV of the Executive Schedule in section 5314 of title 5, United States Code;

(2) employ experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate individuals so employed for each day (including traveltime) at rates not in excess of the maximum rate of pay for grade GS–18 as provided in section 5332 of title 5, United States Code, and while such experts and consultants are so serving away from their homes or regular place of business, to pay such employees travel expenses and per diem in lieu of subsistence at rates authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently;

(3) promulgate such rules and regulations as may be necessary to carry out the functions, powers and duties vested in him;

(4) utilize, with their consent, the services, personnel, and facilities of other Federal agencies;

(5) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of the work of the Office and on such terms as the United States Trade Representative may deem appropriate, with any agency or instrumentality of the United States, or with any public or private person, firm, association, corporation, or institution;

(6) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31, United States Code;

(7) adopt an official seal, which shall be judicially noticed; and

(8) pay for expenses approved by him for official travel without regard to the Federal Travel Regulations or to the provisions of subchapter I of chapter 57 of title 5, United States Code (relating to rates of per diem allowances in lieu of subsistence expenses);

(9) accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding or facilitating the work of the Office;

(10) acquire, by purchase or exchange, not more than two passenger motor vehicles for use abroad, except that no vehicle may be required at a cost exceeding $9,500; and

(11) provide, where authorized by law, copies of documents to persons at cost, except that any funds so received shall be credited to, and be available for use from, the account from which expenditures relating thereto were made.

(f) The United States Trade Representative shall, to the extent he deems it necessary for the proper administration and execution of the trade agreements programs of the United States, draw upon

the resources of, and consult with, Federal agencies in connection with the performance of his functions.

(g)(1)(A) There are authorized to be appropriated to the Office for the purposes of carrying out its functions the following:

(i) $32,300,000 for fiscal year 2003.

(ii) $33,108,000 for fiscal year 2004.

(B) Of the amounts authorized to be appropriated under subparagraph (A) for any fiscal year—

(i) not to exceed $98,000 may be used for entertainment and representation expenses of the Office; and

(ii) not to exceed $1,000,000 shall remain available until expended.

(2) For the fiscal year beginning October 1, 1982, and for each fiscal year thereafter, there are authorized to be appropriated to the Office for the salaries of its officers and employees such additional sums as may be provided by law to reflect pay rate changes made in accordance with the Federal Pay Comparability Act of 1970.

(3) By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the United States Trade Representative shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the Office to carry out its functions.

CHAPTER 5—CONGRESSIONAL PROCEDURES WITH RESPECT TO PRESIDENTIAL ACTIONS

SEC. 151. BILLS IMPLEMENTING TRADE AGREEMENTS ON NONTARIFF BARRIERS AND RESOLUTIONS APPROVING COMMERCIAL AGREEMENTS WITH COMMUNIST COUNTRIES.

(a) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This section and sections 152 and 153 are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of implementing bills described in subsection (b)(1), implementing revenue bills described in subsection (b)(2), approval resolutions described in subsection (b)(3), and resolutions described in subsections 152(a) and 153(a); and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(b) DEFINITIONS.—For purposes of this section—

(1) The term "implementing bill" means only a bill of either House of Congress which is introduced as provided in subsection (c) with respect to one or more trade agreements, or with respect to an extension described in section 282(c)(3) of the Uruguay Round Agreements Act, submitted to the House of Representatives and the Senate under section 102 of this

Act, section 282 of the Uruguay Round Agreements Act, or [section 2105(a)(1) of the Bipartisan Trade Promotion Authority Act of 2002] *section 6(a)(1) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015* and which contains—

(A) a provision approving such trade agreement or agreements or such extension,

(B) a provision approving the statement of administrative action (if any) proposed to implement such trade agreement or agreements, and

(C) if changes in existing laws or new statutory authority is required to implement such trade agreement or agreements or such extension, provisions, necessary or appropriate to implement such trade agreement or agreements or such extension, either repealing or amending existing laws or providing new statutory authority.

(2) The term "implementing revenue bill or resolution" means an implementing bill, or approval resolution, which contains one or more revenue measures by reason of which it must originate in the House of Representatives.

(3) The term "approval resolution" means only a joint resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: "That the Congress approves the extension of nondiscriminatory treatment with respect to the products of _____ transmitted by the President to the Congress on _____.", the first blank space being filled with the name of the country involved and the second blank space being filled with the appropriate date.

(c) INTRODUCTION AND REFERRAL.—

(1) On the day on which a trade agreement or extension is submitted to the House of Representatives and the Senate under section 102, section 282 of the Uruguay Round Agreements Act, or [section 2105(a)(1) of the Bipartisan Trade Promotion Authority Act of 2002] *section 6(a)(1) of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015*, the implementing bill submitted by the President with respect to such trade agreement or extension shall be introduced (by request) in the House by the majority leader of the House, for himself and the minority leader of the House, or by Members of the House designated by the majority leader and minority leader of the House; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such a trade agreement or extension is submitted, the implementing bill shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which the House is in session. Such bills shall be referred by the Presiding Officers of the respective Houses to the appropriate committee, or, in the case of a bill containing provisions within the jurisdiction of two or more committees, jointly to such committees for consideration of those provisions within their respective jurisdictions.

(2) On the day on which a bilateral commercial agreement, entered into under the IV of this Act after the date of the enactment of this Act, is transmitted to the House of Representatives and the Senate, an approval resolution with respect to such agreement shall be introduced (by request) in the House by the majority leader of the House, for himself and the minority leader of the House, or by Members of the House designated by the majority leader and minority leader of the House; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such an agreement is transmitted, the approval resolution with respect to such agreement shall be introduced in that House, as provided in the proceeding sentence, on the first day thereafter on which that House is in session. The approval resolution introduced in the House shall be referred to the Committee on Ways and Means and the approval resolution introduced in the Senate shall be referred to the Committee on Finance.

(d) AMENDMENTS PROHIBITED.—No amendment to an implementing bill or approval resolution shall be in order in either the House of Representatives or the Senate; and no motion to suspend the application of this subsection shall be in order in either House, nor shall it be in order in either House for the Presiding Officer to entertain a request to suspend the application of this subsection by unanimous consent.

(e) PERIOD FOR COMMITTEE AND FLOOR CONSIDERATION.—

(1) Except as provided in paragraph (2), if the committee or committees of either House to which an implementing bill or approval resolution has been referred have not reported it at the close of the 45th day after its introduction, such committee or committees shall be automatically discharged from further consideration of the bill or resolution and it shall be placed on the appropriate calendar. A vote on final passage of the bill or resolution shall be taken in each House on or before the close of the 15th day after the bill or resolution is reported by the committee or committees of that House to which it was referred, or after such committee or committees have been discharged from further consideration of the bill or resolution. If prior to the passage by one House of an implementing bill or approval resolution of that House, that House receives the same implementing bill or approval resolution from the other House, then—

(A) the procedure in that House shall be the same as if no implementing bill or approval resolution had been received from the other House; but

(B) the vote on final passage shall be on the implementing bill or approval resolution of the other House.

(2) The provisions of paragraph (1) shall not apply in the Senate to an implementing revenue bill or resolution. An implementing revenue bill or resolution received from the House shall be referred to the appropriate committee or committees of the Senate. If such committee or committees have not reported such bill or resolution at the close of the 15th day after

its receipt by the Senate (or, if later, before the close of the 45th day after the corresponding implementing revenue bill or resolution was introduced in the Senate), such committee or committees shall be automatically discharged from further consideration of such bill or resolution and it shall be placed on the calendar. A vote on final passage of such bill or resolution shall be taken in the Senate on or before the close of the 15th day after such bill or resolution is reported by the committee or committees of the Senate to which it was referred, or after such committee or committees have been discharged from further consideration of such bill or resolution.

(3) For purpose of paragraphs (1) and (2), in computing a number of days in either House, there shall be excluded any day on which that House is not in session.

(f) FLOOR CONSIDERATION IN THE HOUSE.—

(1) A motion in the House of Representatives to proceed to the consideration of an implementing bill or approval resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate in the House of Representatives on an implementing bill or approval resolution shall be limited to not more than 20 hours, which shall be divided equally between those favoring and those opposing the bill or resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit an implementing bill or approval resolution or to move to reconsider the vote by which an implementing bill or approval resolution is agreed to or disagreed to.

(3) Motions to postpone, made in the House of Representatives with respect to the consideration of an implementing bill or approval resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(4) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to an implementing bill or approval resolution shall be decided without debate.

(5) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of an implementing bill or approval resolution shall be governed by the Rules of the House of Representatives applicable to other bills and resolutions in similar circumstances.

(g) FLOOR CONSIDERATION IN THE SENATE.—

(1) A motion in the Senate to proceed to the consideration of an implementing bill or approval resolution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate in the Senate on an implementing bill or approval resolution, and all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motion or appeal in connection with an implementing bill or approval resolution

shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill or resolution, except that in the event the manager of the bill or resolution is in favor of any such motion or appeal, the time in opposition thereto, shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of an implementing bill or approval resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion in the Senate to further limit debate is not debatable. A motion to recommit an implementing bill or approval resolution is not in order.

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CHAPTER 6—CONGRESSIONAL LIAISON AND REPORTS

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SEC. 162. TRANSMISSION OF AGREEMENTS TO CONGRESS.

(a) As soon as practicable after a trade agreement entered into under section 123 or 124 or under ⟦section 2103 of the Bipartisan Trade Promotion Authority Act of 2002⟧ *section 3 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015* has entered into force with respect to the United States, the President shall, if he has not previously done so, transmit a copy of such trade agreement to each House of the Congress together with a statement, in the light of the advice of the International Trade Commission under section 131(b), if any, and of other relevant considerations, of his reasons for entering into the agreement.

(b) The President shall transmit to each Member of the Congress a summary of the information required to be transmitted to each House under subsection (a). For purposes of this subsection, the term "Member" includes any Delegate or Resident Commissioner.

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VII. COMMITTEE JURISDICTION LETTERS

EXCHANGE OF LETTERS

Committee on Rules
U.S. House of Representatives
H-312 The Capitol
Washington, DC 20515-6269

April 24, 2015

The Honorable Paul Ryan, Chairman
Committee on Ways and Means
1102 Longworth House Office Building
Washington, DC 20515

Dear Chairman Ryan:

On April 23, 2015, the Committee on Ways and Means ordered reported H.R. 1890, the Bipartisan Congressional Trade Priorities and Accountability Act of 2015. As you know, the Committee on Rules was granted a referral upon the bill's introduction pursuant to the Committee's jurisdiction under rule X of the Rules of the House of Representatives over rules and joint rules of the House. The Committee has exclusive jurisdiction over several provisions related to expedited procedures for consideration of legislation in the House.

We appreciate your recognition of the Committee's jurisdiction over these provisions and your assurances that we will be able to make any necessary changes during any House-Senate conference. Because of your commitment to consult with my committee regarding these matters going forward, I will agree to waive consideration of the bill. By agreeing to waive consideration of the bill, the Rules Committee does not waive its jurisdiction. In addition, the Committee on Rules reserves its authority to seek conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this legislation. I ask your commitment to support any request by the Committee on Rules for conferees on this measure or related legislation.

I also request that you include this letter and your response as part of your committee's report on the bill and in the Congressional Record during its consideration on the House floor.

Thank you for your attention to these matters.

Sincerely,

Pete Sessions
Chairman

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

April 24, 2015

The Honorable Pete Sessions
Chairman
Committee on Rules
H-312, The Capitol
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter regarding the Rules Committee's jurisdictional interest in H.R. 1890, the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, and your willingness to forego consideration by your committee.

I agree that the Committee on Rules has a valid jurisdictional interest in certain provisions of the bill and that the Committee's jurisdiction will not be adversely affected by your decision to forego consideration. As you have requested, I will support your request for an appropriate appointment of outside conferees from your committee in the event of a House-Senate conference on this or similar legislation should such a conference be convened.

Finally, I will include a copy of your letter and this response in the committee report and in the Congressional Record during the floor consideration of the bill. Thank you again for your cooperation.

Sincerely,

Paul Ryan
Chairman

cc: The Honorable John Boehner, Speaker of the House

The Honorable Sander Levin, Ranking Minority Member
Committee on Ways and Means

The Honorable Louise Slaughter, Ranking Minority Member
Committee on Rules

Mr. Tom Wickham, Parliamentarian

DISSENTING VIEWS

TPA MARKUP COMMITTEE REPORT

In our view, the Ways and Means Committee and the Congress must focus its attention on the Trans-Pacific Partnership (TPP) negotiations. Those negotiations—the most important trade negotiations in at least 20 years—are at a critical juncture. TPP has the potential to raise standards and open new markets for U.S. businesses, workers, and farmers—or to lock in weak standards, uncompetitive practices, and a system that does not spread the benefits of trade.

The issue is not globalization, which is here to stay, but rather whether and how to shape its course. Our goal—for the American people and U.S. businesses—is a TPP trade agreement that contributes to economic growth, sets high standards, and is sensitive to the needs of the developing and developed countries involved in the negotiations. A key test is whether TPP will result in a net job gain and whether it will address or exacerbate income inequality in the United States. That depends, in part, on whether and how the issues described below are addressed.

Unfortunately, the negotiations are not on the right track. In some areas we don't know where USTR is headed and in others we don't like where they are. Before we turn over our Congressional leverage, we need to ensure the negotiations are headed in the right direction. You can't get a good deal if you are not seeking the right things. TPP is not currently on track to gain broad, bipartisan support in Congress. H.R. 1890 fast tracks TPP, but fails to get TPP on the right track.

Specifically, H.R. 1890: (1) includes general and vague negotiating objectives—nearly identical to those in the Baucus-Camp-Hatch bill last year—that fail to provide guidance on how to resolve the major outstanding issues in TPP in a way that will gainer broad, bipartisan support; (2) leaves it to the President to determine whether the agreement he negotiated "makes progress" in achieving those objectives; (3) leaves it to the President to develop guidelines on how to properly consult with Congress, four months after Congress passes legislation (despite the fact that the TPP negotiators say they are already in the "end game"); and (4) fails to include any workable provision to maintain congressional leverage by enabling Congress to remove fast track. In short, H.R. 1890 puts Congress in the back seat and greases the skids for an up-or-down vote after the fact.

Success should not be measured relative to the status quo. The question rather is: Are the agreement's rules sufficiently forward-looking and strong enough to bring about meaningful lasting improvements to people's lives by enhancing the positive aspects and addressing the negative impacts of globalization? Our leverage is

based largely on other countries' interest in gaining greater access to the U.S. market. Once the U.S. eliminates tariffs on virtually all products, as contemplated in TPP, we will no longer have that leverage.

We offered as an amendment in the nature of a substitute The Right Track for TPP Act. That Act puts the TPP negotiations on the right track, providing a path forward to an agreement that will garner broad, bipartisan support in Congress. Specifically, the Right Track for TPP Act:

(1) Includes specific negotiating *instructions* on all of the major outstanding issues in the TPP negotiations;

(2) Does not provide for expedited consideration unless and until Congress, through bipartisan groups of House and Senate trade advisors, determine that the instructions were followed;

(3) Sets the procedures the President is to follow to inform and consult with Congress and stakeholders; and

(4) Includes two useable mechanisms to enable Congress to remove expedited consideration where necessary.

TPP Negotiating Instructions

1. Currency Manipulation

ISSUE: Majorities in the House and the Senate have urged the Administration to include strong and enforceable currency obligations in the TPP, which includes a number of countries that have manipulated their currencies in the recent past, such as Japan. Other alleged manipulators, such as Korea and Taiwan, have also expressed an interest in joining TPP.

STATUS: The Administration has not made a currency proposal in the TPP negotiations.

H.R. 1890: Leaves it up to the Administration to decide how to address currency manipulation, laying out options the President already has to address the issue—including things like "monitoring" that are already being done.

RIGHT TRACK: Provides that the TPP must include strong and enforceable currency manipulation provisions, consistent with existing IMF guidelines—and spells out what an "enforceable" provision looks like. Congress cannot leave it to an Executive branch to decide how to interpret "enforceable" given that, over the past two administrations, the Executive branch has been unwilling to do what needs to be done on this issue.

2. Labor Rights

ISSUE: Will all TPP parties meet international worker rights standards?

STATUS: TPP does not yet have a mechanism to ensure compliance by TPP parties that have labor laws and practices that fall far short of international standards contained in the "May 10 Agreement of 2007" even though TPP is expected to include the May 10 obligation with enforceability through the basic dispute settlement structure in TPP.

Vietnam presents the greatest challenge the United States has ever had in ensuring compliance. Workers there are prohibited from joining any union independent of the communist party. While

the Administration is discussing these issues with Vietnam, Members of Congress and stakeholder advisors have not yet seen any proposal to address these critical issues. The Administration also has not committed to ensuring that all changes to laws and regulations are made before Congress votes—or even before the TPP agreement enters into force. Mexico also presents considerable challenges. Employer-dominated 'protection unions' are prevalent, and the arbitration boards responsible for resolving labor disputes are inherently and structurally biased. It is not clear whether, how, or when the Administration will resolve these and other issues with Mexico. Without their resolution, it will not be possible to say that the problems with NAFTA are being fixed. U.S. workers and U.S.-based businesses should not be required to compete against workers who are denied their basic labor rights.

H.R. 1890: Does not address what needs to be done to bring countries like Vietnam and Mexico (as well as Malaysia and Brunei) into compliance with international labor standards. It contains only general language in line with the May 10 Agreement.

RIGHT TRACK: Describes what needs to be done to bring Vietnam, Mexico, and other countries into compliance with international labor standards (as reflected in the May 10 Agreement) and to help ensure compliance after the TPP agreement enters into force. It also requires that the changes needed to bring our trading partners into compliance occur before Congress votes. It is important that there be a change in the status quo in the countries that are clearly out of compliance with basic international standards.

3. Environment

ISSUE: Will the TPP environmental chapter ensure a level of environmental protection at least as high as the May 10 standard which directly incorporated seven multilateral environmental agreements into the text of past trade agreements?

STATUS: The TPP environment chapter will look very different from the May 10 Agreement. The environment chapter covers a broad range of subjects, ranging from shark finning, to fish subsidies, to trade in illegally harvested plants and animals. But the obligations themselves—the 'verbs' used—are often weak.

H.R. 1890: Simply lists the seven multilateral environmental agreements from the May 10 Agreement, which is not consistent with the approach taken in TPP.

RIGHT TRACK: Instructs the President to ensure a level of environmental protection at least as high as the level provided under the May 10 Agreement. It also recognizes the need to replace weak commitments with strong ones, such as "prohibiting" imports of illegally harvested wildlife products.

4. Investment and Investor-State Dispute Settlement (ISDS)

ISSUE: Will the TPP include an investor-state dispute settlement (ISDS) mechanism that provides foreign companies a right of action against other governments for infringing on the companies' investment rights? Will the TPP include an ISDS mechanism without incorporating any new, additional safeguards to prevent it from being abused?

There are now more cases of private investors challenging environmental, health, and other regulations in nations—even nations with strong and independent judicial systems and rule of law. Just last month, a NAFTA tribunal, in *Bilkon v. Government of Canada*, granted an award that appears to be inconsistent with the U.S. interpretation of the investment obligations that will be included in the TPP Agreement. Other investment disputes involve 'plain packaging' of tobacco products in Australia and pharmaceutical patent requirements in Canada. This issue is receiving heightened scrutiny among negotiators and from a broad-range of interested parties. Some of our TPP partners do not support ISDS or are seeking safeguards to ensure that nations preserve their right to regulate. The Economist magazine, the Cato Institute, and the Government of Germany (the birthplace of ISDS) have also recently expressed concerns with ISDS.

STATUS: The TPP text is basically the same as the model adopted 10 years ago, even though conditions have changed dramatically in the past 10 years. Proposals to include new safeguards in the ISDS mechanism have been rejected.

H.R. 1890: Is exactly the same negotiating objective it was over 12 years ago.

RIGHT TRACK: Instructs the President to: (1) establish a new mechanism to enable TPP parties to agree to dismiss an ISDS case; (2) clarify the vague 'minimum standard of treatment' obligation; (3) allow parties to adopt capital controls to prevent or mitigate financial crises; and (4) clarify that the Agreement is not intended to provide foreign investors with greater substantive rights than U.S. investors under U.S. law, consistent with the May 10 Agreement.

5. Access to Medicines

ISSUE: Will the TPP ensure a balance between strong intellectual property rights and access to affordable, life-saving medicines, as provided under the May 10 Agreement?

STATUS: Absent some change in course, the final text is likely to provide less access to affordable medicines than provided under the May 10 Agreement. For example, developing countries will likely be required to 'graduate' to more restrictive intellectual property rights standards before they become developed—a clear inconsistency with May 10. There are also a number of concerns that the TPP agreement will restrict access to medicines in the United States and other developed countries (e.g., by encouraging second patents on similar products, by having long periods of data exclusivity for biologic medicines, by allowing drug companies to challenge government pricing and reimbursement decisions).

H.R. 1890: Includes additional language on access to medicines that was not part of the 2002 bill, apparently as a nod to the May 10 Agreement. But it is unclear what this language means. TPA also seeks to achieve "the elimination of government measures such as price controls and reference pricing"—going far beyond the transparency and due process commitments relating to pharmaceutical reimbursement schemes that were negotiated in past trade agreements.

RIGHT TRACK: Instructs our negotiators to adhere to the access to medicines provisions of the May 10 Agreement.

6. Automotive Market Access

ISSUE: Will the TPP finally open Japan's market to U.S. automobiles and auto parts?

For most of the past 15 years, our trade deficit with Japan has been second only to our deficit with China, and over two-thirds of the current deficit is in automotive products. Japan has long had the most closed automotive market of any industrialized country, despite repeated efforts by U.S. negotiators over decades to open it. At a minimum, the United States should not open its market further to Japanese imports, through the phase-out of tariffs, until we have time to see whether Japan has truly opened its market.

STATUS: The Administration has not stated a specific period of time for when the phase-out in U.S. tariffs for autos, trucks, and auto parts would begin or when they would end. The parties are also still working to address certain non-tariff barriers that Japan utilizes to close their market.

H.R. 1890: Broadly states that the United States should "expand competitive market opportunities for exports of goods." Such a broad negotiating objective provides no guidance regarding how to truly open the Japanese automotive market.

RIGHT TRACK: Provides that U.S. auto tariffs should not be reduced or eliminated unless and until Japan opens its notoriously closed auto market; alternatively, those tariffs may be eliminated 30 years after the agreement enters into force.

7. Rules of Origin

ISSUE: Will the TPP incorporate rules that ensure that the benefits of the tariff cuts flow primarily to the parties to the agreement and not to free-rider third parties that have not signed up for the commitments in the TPP?

"Rules of origin" define the extent to which inputs from outside the TPP region (e.g., China) can be incorporated into an end product for that product to still be entitled to preferential/duty-free treatment under the Agreement. The rule should be restrictive enough to ensure that the benefits of the agreement accrue to the parties to the agreement. Some have argued that the automotive rule of origin in TPP should be at least as stringent as the rule in NAFTA, given that TPP involves all three of the NAFTA countries plus nine others.

STATUS: There are a number of rules of origin being negotiated in the TPP for different products, including in the sensitive textile and apparel, agricultural, and automotive sectors. Some of the rules are largely settled while others—including the rules for automotive products—remain open and controversial.

H.R. 1890: The Hatch-Wyden-Ryan TPA bill provides no guidance whatsoever on any rule of origin on any product in the TPP negotiations.

RIGHT TRACK: Instructs the President to negotiate a rule of origin for automotive products that is at least as stringent as the rule in the North American Free Trade Agreement.

8. Tobacco Controls

ISSUE: Will the TPP safeguard countries' ability to regulate tobacco as a matter of public health?

TPP needs to explicitly preserve the ability to regulate tobacco. A number of recent international disputes have challenged tobacco measures, including multiple disputes (both WTO and ISDS) challenging Australia's plain packaging scheme for cigarettes. A number of public health groups are concerned about the potential of FTAs to roll back legitimate tobacco control measures.

STATUS: In 2013, the Administration decided not to pursue a safe harbor for tobacco in TPP that it had originally supported. Instead, the Administration tabled a proposal that merely confirms that tobacco measures may be subject to the normal public health exception in our trade agreements—drawing intense criticism from former New York Mayor Michael Bloomberg, the New York Times editorial board, and non-governmental organizations.

H.R. 1890: Provides no guidance on tobacco control measures, given the Administration the flexibility to include whatever it wants, or nothing at all.

RIGHT TRACK: Provides that non-discriminatory tobacco control measures should not be subject to challenges as being inconsistent with the obligations in the TPP.

9. State-Owned Enterprises

ISSUE: Will the TPP impose rules on companies effectively run and funded by their governments, so that truly private enterprises can compete with them on a level playing field?

In today's global economy, competition is fiercer than ever. Certain countries that rely heavily on state-controlled and state-funded enterprises (also known as state-owned enterprises or SOEs) are able to give those champions an enormous—and unfair—advantage over private companies that compete against them in the marketplace. And, in turn, those SOEs don't always operate based on commercial considerations, but instead may pursue state objectives such as favoring local suppliers over U.S. suppliers.

STATUS: The TPP will include disciplines on SOEs that are expected to go beyond anything ever included in past trade agreements. But the extent to which an SOE provision will help to level the playing field will be determined by the degree to which parties seek very broad country-specific carve-outs for particular SOEs. As concerning, the definition of SOEs is too narrow, allowing enterprises that are effectively controlled by foreign governments (but where the government owns less than 50% of the shares) to circumvent the obligations.

H.R. 1890: Provides no guidance on what an acceptable definition of an SOE is, or on what kinds of carve-outs are acceptable.

RIGHT TRACK: Provides that the SOE disciplines should apply broadly to all enterprises controlled by governments, including where the government owns a controlling interest but less than a majority of the shares, and that exclusions from coverage must be narrowly tailored.

10. Agricultural Market Access

ISSUE: Will the TPP eliminate tariffs on virtually all U.S. agricultural exports in markets that have been traditionally sheltered from competition from trade like Japan's and Canada's?

STATUS: It appears that the United States and Japan will agree that Japan will reduce tariffs—but never eliminate them—on hundreds of agricultural products, far more carve-outs than under any U.S. trade agreement in the past. Canada, on the other hand, has not put any offer on the table for dairy products, which is causing some concern in the dairy industry. This concern is even stronger given that the dairy industry is not entirely pleased with the status of the Japan negotiations, plus the fact that the industry is concerned about an increase in dairy imports from New Zealand. Finally, the dairy industry is also closely watching the negotiations over 'geographical indications' as it relates to cheeses and other dairy products.

H.R. 1890: Has as its objective "reducing *or* eliminating" tariffs on agricultural products (emphasis added). Thus, even Japan's opening offer—to reduce but never eliminate tariffs on nearly 600 products—satisfied this objective, demonstrating this objective is meaningless. And while former Chairman Camp said that Japanese "exclusions from tariff elimination translate to Congressional opposition" to TPP, the bill does not mention comprehensive tariff elimination even as a negotiating *objective*, much less as a requirement.

RIGHT TRACK: Instructs the President to "eliminate" tariffs on virtually all products. In the exceptional circumstances where a product is not subject to full tariff elimination, the President is to obtain significant new market access opportunities, substantially equivalent to the opportunities afforded TPP party exporters in the U.S. market.

11. Food Safety Measures

ISSUE: Will the TPP safeguard the ability of regulators to block unsafe imported food while also ensuring that U.S. agricultural exporters are not subjected to bogus food safety measures?

STATUS: TPP will be the first U.S. trade agreement that will include restrictions on the kind of measures TPP parties can take to block food imports based on alleged safety concerns, reflecting growing, legitimate concerns of U.S. farmers and ranchers. We have asked the Administration to confirm that existing U.S. laws, regulations and practices will not be impacted by these obligations. There is also a concern that we do not have adequate resources to monitor the safety of food imports.

H.R. 1890: Requires the President to report on any changes to U.S. labor laws or practices necessary to comply with the labor obligations in a trade agreement. It has no similar provision regarding changes to U.S. food safety laws or practices, nor does it ensure adequate resources to monitor the safety of food imports.

RIGHT TRACK: Calls for additional and ongoing funding for food safety inspections, while also supporting robust rules to ensure that other countries do not adopt illegitimate food safety measures designed to keep out U.S. exports.

12. Human Rights

ISSUE: A number of TPP parties have disturbing records on human rights.

STATUS: It is unclear how these concerns will be resolved with TPP partner countries.

H.R. 1890: Provides no guidance. The objective is "ensuring implementation of trade commitments and obligations by strengthening good governance, transparency, the effective operation of legal regimes and the rule of law of trading partners of the United States through capacity building and other appropriate means, which are important parts of the broader effort to create more open democratic societies and to promote respect for internationally recognized human rights."

RIGHT TRACK: Provides that each TPP Party is expected to take steps to respect internationally recognized human rights. Also provides that House and Senate TPP Advisory Groups (described below) may recommend provisions to be included in the implementing bill, which could address human rights concerns.

TPP Congressional Consultations, Oversight, & Transparency

The Right Track for TPP Act includes the following procedures and requirements:

- *Transparency.* Members and their staff with appropriate security clearances, and the stakeholder advisory committees, shall have access to all negotiating proposals and consolidated negotiating texts, with an indication of which party supports each provision. Member staff shall have access regardless of whether they are accompanied by their Member.
- *House and Senate Advisory Groups Approve New TPP Entrants.* Bipartisan House and Senate TPP Advisory Groups will be established, made up of Members from the committees of jurisdiction and other Members selected by leadership. No country can join the TPP negotiations, if the TPP is to be considered under expedited procedures, until the House and Senate Advisory Groups approve.
- *Committee Disapproval Resolution:* After the President notifies Congress of his intent to conclude TPP, either committee of jurisdiction can vote to remove TPP from receiving fast track consideration.
- *Sizeable Minority Resolution:* If one-third of the Members in both Chambers co-sponsors a resolution to remove TPP from receiving fast track consideration, that resolution must receive a vote in each Chamber. If the resolution passes both Chambers, TPP would not receive fast track consideration.
- *Report on Impact of TPP.* The President shall submit a report 120 days after TPP is concluded that, among other things, describes: (1) the likely economic impact of the agreement (including specific market opportunities U.S. exporters will gain and what imports are expected to increase; impact on employment, the median wage, income disparities; impact on trade imbalance); (2) impact on U.S. regulations; (3) the economic, legal, and institutional framework of each TPP party, including on transparency, and its ability to fully implement the commitments; and (4) an assessment of the environmental impact of the trade agreement.

• *House and Senate Advisory Groups Vote on Compliance with Negotiating Instructions:* For TPP to receive consideration under fast track procedures, the TPP Advisory Groups must certify that the President has (1) followed the negotiating instructions described above and (2) adequately consulted with Congress. While Congress obviously cannot write instructions that dictate the terms of the agreement, and the give-and-take of negotiations may result in some outcomes that do not mirror the instructions, Congress, not the President, should determine whether the instructions have been followed.

The substitute applies only to the TPP negotiations. After TPP is put on the right track, Congress must consider trade negotiating authority and procedures for other critically important negotiations, such as the Trans-Atlantic Trade and Investment Partnership Agreement (TTIP). By contrast, H.R. 1890 would apply for three years with a three-year extension. It therefore would cover such critically important negotiations as TTIP, which involves a broad range of issues, in some cases beyond TPP. Mr. McDermott offered an amendment to shorten the period of application in H.R. 1890 to the end of 2016. That amendment was rejected by the majority, as were all other amendments offered by the minority.

While we appreciate the Chairman's willingness to thoroughly debate these issues during the markup, we oppose the Chairman's decision to not allow a vote on the amendment in the nature of a substitute, pursuant to Rule X of the House of Representatives. We recognize and respect the jurisdiction of the Committee on Rules, and understand that providing expedited House procedures for trade agreements falls within its jurisdiction. What is troubling, however, is that the majority of our Committee was able to markup a trade promotion authority bill, but the minority was prohibited from doing the very same thing through a substitute amendment. Making matters worse, we understand the Chairman of the Rules Committee plans to waive his Committee's jurisdiction over H.R. 1890, preventing any change to the many procedural rules throughout H.R. 1890, which are inextricably tied to the trade provisions of the bill, before the bill is debated by the full U.S. House of Representatives. It is a classic Catch–22. And, rather than being about the jurisdiction of Ways and Means versus the Rules Committee, the issue is the ability of the majority to deny the minority a vote on a bill with the very same scope as the one the majority voted for in Committee. The parliamentarians described this decision as a close-call, and the Chairman's decision bucks prior practice—former Chairman Bill Thomas allowed a vote on the minority's substitute TPA amendment in 2001.

We also note that, in conjunction with passing legislation that will guide the passage of trade agreements, Congress must also do more to ensure that the United States is prepared to compete in an increasingly globalized economy and to enforce our trade agreements and trade laws. A package of such measures (including, for example, a currency bill that passed the House of Representatives in 2010 with broad bipartisan support) was proposed as an amendment to H.R. 1890 but unfortunately was ruled not to be germane to H.R. 1890. We will continue to work to pass these measures into

law, including during any upcoming conferences between the House and the Senate on trade.

Finally, we wish to note two issues regarding the negotiating objectives in H.R. 1890. First, regarding the boycott divestment sanctions negotiating objective, we note that the H.R. 1907, introduced by the Majority, included an anti-boycott provision as part of the negotiating objectives for Trade Promotion Authority. That provision applied to all parties with which the United States is (and will be) negotiating trade agreements. Chairman Ryan introduced an amendment to his own Trade Promotion Authority bill that would limit the application of this provision to the Transatlantic Trade and Investment Partnership Agreement (TTIP). The amendment operates to exclude Trans-Pacific Partnership countries from the scope of the provision. In light of some of the policies of countries that are part of the TPP, the narrowing of the scope of the provision seems to be designed to ensure that those policies are not challenged as to TPP, while they are as to TTIP. In our view, any such provision should be applicable to all parties with which the United States is negotiating a trade agreement subject to TPA.

Lastly, the Majority rejected Ms. Sanchez's amendment that would have provided for the removal of fast-track procedures with respect trade agreements that include trading partners who criminalize lesbian, gay, bisexual and transgender (LGBT) conduct. The Majority indicated that LGBT rights are included among internationally recognized human rights. The provisions regarding internationally recognized human rights in H.R. 1890 are inadequate and far weaker than the provisions addressing those issues in the Right Track for TPP Act.

The text of the Right Track for the Trans-Pacific Partnership Act of 2015 follows:

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 1890

OFFERED BY MR. LEVIN OF MICHIGAN

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Right Track for the Trans-Pacific Partnership Act of 2015".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. TPP NEGOTIATING INSTRUCTIONS.

(a) TPP NEGOTIATING INSTRUCTIONS ON MAJOR OUTSTANDING ISSUES.—The negotiating instructions of the Congress to the President on negotiations with respect to the major outstanding issues

of the Trans-Pacific Partnership (in this Act referred to as the "TPP" or "TPP agreement") negotiations are the following:

(1) CURRENCY MANIPULATION.—Congress' instructions to the President regarding currency practices are to establish strong and enforceable rules, consistent with or building upon Article IV of the Articles of Agreement of the International Monetary Fund and related guidelines, requiring each TPP party to avoid manipulating exchange rates to gain an unfair competitive advantage in international trade over other TPP parties. The rules shall be enforceable through the same dispute settlement and remedies as other obligations under the TPP agreement, provided that a panel finding that a TPP party is engaging in currency manipulation shall have no effect if, not later than 60 days after the panel makes its finding, the Executive Board of the International Monetary Fund disagrees with a panel finding and affirmatively finds that the TPP party is not engaging in currency manipulation.

(2) LABOR RIGHTS.—Congress' instructions to the President with respect to labor provisions are—

(A) to ensure that each TPP party—

(i) adopts, maintains, and does not waive or otherwise derogate from, measures implementing core labor standards (as defined in section 8),

(ii) does not fail to effectively enforce its labor laws, through a sustained or recurring course of action or inaction,

in a manner affecting trade or investment between the parties;

(B) to strengthen the capacity of the TPP parties to promote respect for core labor standards;

(C) to ensure that the labor obligations are subject to the same dispute settlement and remedies as other obligations under the TPP agreement; and

(D) to ensure the implementation of the labor obligations in the TPP agreement by—

(i) providing that a union shall not be required to affiliate with any confederation and shall be free to form and affiliate with any vertical or horizontal workers organization, including any confederation, sector-wide, or industry-wide union of its own choosing and that workers in a TPP party shall have the right to freely form and join an autonomous and independent union of their choosing;

(ii) providing that a union engaged in collective bargaining with an employer must demonstrate majority support of that employer's workers, on behalf of whom it is negotiating, prior to registration of any collective bargaining agreement;

(iii) providing that for purposes of labor obligations in the agreement relating to procedural guarantees for labor law enforcement, any administrative, quasi-judicial, judicial or labor tribunals or boards composed of members with direct or indirect interest in matters before them shall not be considered impartial and independent;

(iv) requiring each TPP party to adopt all measures necessary to bring its laws and regulations into compliance with the TPP agreement, and to have adopted any new procedures and institutional changes needed to independently and objectively implement such legal reforms, before the implementing bill is submitted to Congress; and

(v) with respect to any TPP party that must substantially transform its labor regime to comply with the labor obligations in the TPP agreement, establishing from the date of entry into force of the TPP agreement an independent panel of experts to regularly examine and publicly report on the implementation of the transformational reforms, provide recommendation, and identify concerns relating to the TPP party's compliance with its labor obligations in the agreement based on input from the TPP parties and interested stakeholders and on any other relevant information and reporting. If the independent panel determines that the TPP party is not in compliance with its obligations, the determination shall be treated as an initial report of an arbitral panel under the agreement, and the matter shall be addressed in accordance with the normal procedures laid out for such cases, including through an agreement to eliminate the nonconformity in the first instance or, as a last resort, to suspend benefits under the TPP agreement.

(3) ENVIRONMENT.—Congress' instructions to the President regarding the environment are to obtain commitments from each TPP party to ensure a level of environmental protection in trade and investment at least as great as the level established under the "May 10 Agreement of 2007" (as defined in section 8), such as by—

(A) requiring that each TPP party—

(i) adopts and maintains measures implementing its obligations under the core multilateral environmental agreements (as defined in section 8);

(ii) does not waive or otherwise derogate from, or offer to waive or otherwise derogate, from its statutes or regulations implementing its environmental laws in a manner that weakens or reduces the protections afforded in those laws and in a manner affecting trade or investment between the United States and that TPP party, except as provided in its law and provided not inconsistent with its obligations under core 13 multilateral environmental agreements or other provisions of the trade agreement specifically agreed upon; and

(iii) does not fail to effectively enforce its environmental or labor laws, through a sustained or recurring course of action or inaction, in a manner affecting trade or investment between the United States and that TPP party after entry into force of a trade agreement between those countries;

(B) prohibiting trade in illegally harvested goods, including in sub-Federal entities that are known to permit such trade, and shark finning;

(C) prohibiting subsidies that promote fishing with respect to overfished species;

(D) requiring joint action to address climate change, including through adaptation and mitigation;

(E) strengthening the capacity of United States trading partners to protect the environment through the promotion of sustainable development;

(F) reducing or eliminating government practices or policies that unduly threaten sustainable development;

(G) ensuring that environment obligations are subject to the same dispute settlement and remedies as other obligations under the TPP agreement;

(H) requiring each TPP party to operate regional fisheries management organization systems that—

(i) regulate marine wild capture fishing; and

(ii) are designed to—

(I) prevent overfishing and overcapacity;

(II) reduce bycatch of nontarget species and juveniles; and

(III) promote the recovery of overfished stocks; and

(I) ensuring long-term conservation of marine mammals, marine turtles, and seabirds.

(4) INVESTMENT AND INVESTOR-STATE DISPUTE SETTLEMENT.—Recognizing that United States law provides a high level of protection for investment, consistent with or greater than the level required by international law, Congress' instructions to the President regarding investment and investor-state dispute settlement are to reduce or eliminate artificial or trade distorting barriers to foreign investment, while ensuring that foreign investors in the United States are not accorded greater substantive rights with respect to investment protections than United States investors in the United States by—

(A) freeing the transfer of funds relating to investments, except where a restriction on the transfer of funds is necessary to prevent or mitigate a financial crisis;

(B) further clarifying the "minimum standard of treatment" provision, consistent with the award in Glamis Gold (as defined in section 8), by—

(i) explicitly stating that the investor bears the burden of establishing that a state has violated a principle of customary international law regarding the minimum standard of treatment of aliens;

(ii) explicitly stating that customary international law requires an investor to prove a general and consistent practice of states, and that evidence for such practice cannot be based on a past tribunal's interpretation of the minimum standard of treatment, and that is followed based on a sense of legal obligation (opinio juris); and

(iii) explicitly stating that, unless an investor is able to prove otherwise based on the customary international law standard, "arbitrary" conduct by a state or state actions that upset an investor's expectations do not violate the minimum standard of treatment;

(C) establishing a mechanism whereby the TPP party being sued by an investor and the investor's home country may agree that a claim submitted to arbitration is not a claim for which an award in favor of the claimant may be granted by the tribunal; and

(D) stating, in the preamble of the TPP agreement, that the TPP agreement does not accord greater substantive rights than domestic investors have under domestic laws where, as in the United States, protection of investor rights under domestic law equal or exceed those set forth in the TPP agreement.

(5) ACCESS TO MEDICINES.—Congress' instructions to the President regarding trade-related intellectual property and access to medicines are to ensure that the provisions of the TPP agreement respect the Declaration on the TRIPS Agreement and Public Health, adopted by the World Trade Organization at the Fourth Ministerial Conference at Doha, Qatar, on November 14, 2001, and the May 10 Agreement of 2007 (as defined in section 8), which fosters innovation and promotes access to medicines for all.

(6) AUTOMOTIVE MARKET ACCESS.—Congress' instructions to the President regarding the automotive market in Japan (including cars, trucks, and auto parts), and to any other product market that has historically been essentially closed to United States exports, are to maintain United States tariffs on imports of comparable products from that TPP party for a period of time sufficient to ensure that the TPP party has opened its market to United States exports of the relevant product. In the case of the Japanese automotive market, Congress' instructions to the President are to obtain an agreement that—

(A) with respect to tariffs, either—

(i) phases out United States tariffs as soon as, but not before, Japan has established a consistent record of openness to imports, in line with the import penetration level of other industrialized nations; or

(ii) reduces United States tariffs not before 25 years, and eliminates United States tariffs not before 30 years, after the TPP agreement enters into force.

(B) eliminates unjustifiable nontariff barriers that have impeded the ability of United States automakers to establish presences, operate, import, or otherwise compete effectively in Japan; and

(C) establishes a dispute settlement mechanism that—

(i) is applicable specifically to United States-Japan automotive trade; and

(ii) permits the United States, where Japan has been found to have acted inconsistently with its obligations under the TPP agreement, to suspend benefits accruing to Japan by delaying the reduction of United

States tariffs, if United States tariffs have not yet been reduced, and by reimposing tariffs to pre-reduction levels, if United States tariffs have started being or have already been reduced.

(7) RULES OF ORIGIN.—Congress' instructions to the President regarding rules of origin are to ensure that, to the maximum extent feasible, the benefits of the TPP agreement accrue to the TPP parties, particularly with respect to goods produced in the United States and goods that incorporate materials produced in the United States. In the case of automotive products, the President is instructed to obtain a rule of origin at least as stringent as the rule in the North American Free Trade Agreement.

(8) TOBACCO CONTROLS.—Congress' instructions to the President regarding public health measures relating to tobacco is to clarify and ensure that nondiscriminatory public health measures relating to tobacco should not be challenged within the mechanisms of the TPP agreement as being inconsistent with the obligations in the TPP agreement.

(9) STATE-OWNED AND STATE-CONTROLLED ENTERPRISES.—Congress' instructions to the President regarding competition by state-owned and state-controlled enterprises are to seek commitments that—

(A) eliminate or prevent trade distortions and unfair competition favoring state-owned and state-controlled enterprises to the extent of their engagement in commercial activity,

(B) ensure that such engagement is based solely on commercial considerations,

(C) apply broadly to all enterprises that are controlled by governments, including where the government owns a controlling interest but less than a majority of the shares in the enterprise, and

(D) apply to virtually all state-owned or controlled enterprises with exclusions narrowly tailored to address specific public policy objectives,

in particular through disciplines that eliminate or prevent discrimination and market-distorting subsidies and that promote transparency.

(10) AGRICULTURE MARKET ACCESS.—Congress' instructions to the President regarding agriculture are to—

(A) eliminate, by a date certain, tariffs and other charges on United States exports of virtually all bulk, specialty crop, and value-added commodities, by tariff line; and

(B) in the exceptional circumstances where an agricultural product is not subject to full tariff elimination, obtain significant new market access opportunities for United States exporters, through tariff-rate quotas and other mechanisms, substantially equivalent to the competitive opportunities afforded TPP party exporters in United States markets.

(11) FOOD SAFETY MEASURES AND OTHER MEASURES AFFECTING AGRICULTURAL PRODUCTS.—Congress' instructions to the President regarding disciplines on food safety measures and

other measures affecting agricultural products are to obtain competitive opportunities for United States exports of agricultural commodities in the markets of TPP parties substantially equivalent to the competitive opportunities afforded foreign exporters in United States markets and to achieve fairer and more open conditions of trade in bulk, specialty crop, and value added commodities by securing more open and equitable market access through robust rules on sanitary and phytosanitary measures that—

(A) encourage the adoption of international standards and require a science-based justification be provided for a sanitary or phytosanitary measure if the measure is more restrictive than the applicable international standard,

(B) improve regulatory coherence, promote the use of systems-based approaches, and appropriately recognize the equivalence of health and safety protection systems of exporting countries,

(C) require that measures are transparently developed and implemented, are based on risk assessments that take into account relevant international guidelines and scientific data, and are not more restrictive on trade than necessary to meet the intended purpose,

(D) improve import check processes, including testing methodologies and procedures, and certification requirements, and

(E) eliminate and prevent the undermining of market access for United States products through improper use of a country's system for protecting or recognizing geographical indications,

while preserving the right of governments to put in place legitimate measures to protect human, animal, or plant life or health, and reaffirming the rights and obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (referred to in section 101(d)(3) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(3))).

(12) HUMAN RIGHTS.—Congress' instruction to the President regarding human rights is, in determining whether to conclude the TPP negotiations with each party, to consider whether the government of that TPP party consistently demonstrates respect for "internationally recognized human rights" (as defined in section 8) and is taking steps to address areas of concern.

(b) INSTRUCTIONS WITH RESPECT TO OTHER ISSUES.—Recognizing the current status of the TPP negotiations, Congress' instruction to the President with respect to the negotiations on subjects other than those described above is to continue to pursue the objectives United States negotiators have had in these negotiations, based on views expressed by stakeholders and Members of Congress.

SEC. 3. TPP ADVISORY GROUPS.

(a) SELECTION.—

(1) IN GENERAL.—Not later than 14 days after the date of the enactment of this Act, the Speaker of the House of Representatives and the President pro tempore of the Senate shall each establish a TPP Advisory Group in accordance with the requirements of this section. The TPP Advisory Groups shall pro-

vide advice on the development of trade policy and priorities for the implementation thereof.

(2) HOUSE MEMBERSHIP.—The House TPP Advisory Group shall be comprised of the following Members of the House of Representatives:

(A) The chairman and ranking minority member of the Committee on Ways and Means and 10 additional Members (not more than 5 of whom are members of the same political party), selected by the chairman and ranking minority member of such Committee.

(B) Ten other members of the House of Representatives (not more than 5 of whom are members of the same political party), selected by the Speaker and minority leader of the House of Representatives.

(3) SENATE MEMBERSHIP.—The Senate TPP Advisory Group shall be comprised of the following Members of the Senate:

(A) The chairman and ranking minority member of the Committee on Finance, and 4 additional Members of the Senate (not more than 2 of whom are members of the same political party), selected by the chairman and ranking minority member of such Committee.

(B) Four other Members of the Senate (not more than 2 of whom are members of the same political party), selected by the President pro tempore and the minority leader of the Senate.

(4) ACCREDITATION.—Each member of the House and Senate TPP Advisory Groups shall be accredited by the United States Trade Representative on behalf of the President as an official adviser to the United States delegation in negotiations for any trade agreement to which this title applies.

(b) BRIEFING.—The United States Trade Representative shall keep each member of the House and Senate TPP Advisory Groups currently informed with respect to progress on negotiating instructions under section 2, the status of TPP negotiations, and the nature of any changes in domestic law or the administration thereof which may be recommended to Congress to carry out TPP agreement or any requirement of, amendment to, or recommendation under, the TPP agreement.

SEC. 4. APPLICATION OF TRADE AUTHORITIES PROCEDURES TO TPP.

(a) IN GENERAL.—The provisions of section 151 of the Trade Act of 1974 (in this Act referred to as "trade authorities procedures") shall apply to a bill of either House of Congress which contains provisions described in subsection (b) to the same extent as such section 151 applies to implementing bills under that section. A bill to which this section applies shall hereafter in this Act be referred to as an "implementing bill".

(b) PROVISIONS DESCRIBED.—The provisions described in subsection (a) are—

(1) a provision approving a trade agreement with Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam (in this Act referred to as the "Trans-Pacific Partnership" or "TPP agreement") and implementing the TPP agreement (in this Act referred to as an "implementing bill"); and

(2) if changes in existing laws or new statutory authority are required to implement the TPP agreement, provisions necessary or appropriate to implement the TPP agreement, either repealing or amending existing laws or providing new statutory authority.

(c) SATISFACTION OF OTHER REQUIREMENTS IN THIS ACT.—Trade authorities procedures shall only apply to an implementing bill if—

(1) the President has satisfied each consultation provision contained in this Act;

(2) disapproval resolutions, as described in section 5(b)(1), are not agreed to as provided in section 5(b)(1);

(3) neither the Committee on Finance of the Senate nor the Committee on Ways and Means of the House of Representatives agrees to a disapproval resolution, as provided in section 5(b)(2); and

(4) each TPP Advisory Group concurs, as described in section 6(d), with the President's assertion that the TPP agreement achieves the negotiating instructions under section 2 and that the President has adequately consulted with Congress.

(d) ACCESSION TO TPP.—Trade authorities procedures shall not apply to a bill of either House of Congress which provides for a foreign country or instrumentality to accede to the TPP agreement, unless—

(1) the President provides Congress with 90 days notice of the intent to negotiate with the foreign country or instrumentality to accede to the TPP agreement;

(2) a majority of the members of each TPP Advisory Group approves of negotiating with that foreign country or instrumentality within that 90 day consultation period; and

(3) the President separately satisfies every requirement in this Act with respect to the consultations of that foreign country or instrumentality during negotiations regarding accession to the TPP agreement.

SEC. 5. CONGRESSIONAL CONSULTATION DURING TPP NEGOTIATIONS.

(a) CONSULTATION WITH CONGRESS BEFORE ENTERED INTO A TPP AGREEMENT.—

(1) CONSULTATION.—Before entering into a TPP agreement, the President shall consult, on a systemic and regular basis, with—

(A) the House and Senate TPP Advisory Groups;

(B) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate;

(C) each other committee of the House of Representatives and the Senate, and each joint committee of the Congress, which has jurisdiction over legislation involving subject matters which would be affected by the TPP agreement; and

(D) any other Member of Congress that requests consultations.

(2) SCOPE.—The consultation described in paragraph (1) shall include consultation with respect to—

(A) the nature of the TPP agreement;

(B) how and to what extent the TPP agreement will achieve the applicable purposes, policies, priorities, and negotiating instructions under this Act, as well as any other issue dealt with in the TPP agreement;

(C) the implementation of the TPP agreement under section 6, including the general effect of the TPP agreement on existing laws.

(3) ACCESS TO TEXT OF NEGOTIATING PROPOSALS.—

(A) IN GENERAL.—Consistent with effective negotiations, the United States Trade Representative shall encourage maximum accessibility to trade texts, the proposals made by the United States and other trading partners. The policy is to make negotiations as open as possible and to identify major issues that are the subject of negotiations.

(B) ACCESS TO SPECIFIC TEXTS.—The President shall, upon request, make available to each Member of Congress the following:

(i) A copy of the text of the negotiating proposals of the United States with respect to the TPP agreement.

(ii) A copy of the text of the negotiating proposals of each foreign country with respect to the TPP agreement.

(iii) A copy of consolidated negotiating texts, which shall indicate which country is advocating for each provision.

(C) CONGRESSIONAL STAFF.—Each Member of Congress may designate one staff member to review the texts described in clauses (i), (ii), and (iii) of subparagraph (A) if such staff member has an appropriate security clearance, and the President shall, upon request of a Member, promptly make available to such staff the texts described in clauses (i), (ii), and (iii) of subparagraph (A). The Member of Congress does not need to be present for his or her designated staff member to review these texts. In no case shall access to information described in clauses (i), (ii), and (iii) of subparagraph (A) by staff require a security clearance above the level under which the information is classified.

(D) TRADE ADVISORY COMMITTEE MEMBERS.—The President shall promptly make available to each member of a trade advisory committee, with an appropriate security clearance, as established under section 135 of the Trade Act of 1974, as amended (19 U.S.C. 2155), the text of the negotiation proposals under clauses (i), (ii), and (iii) of subparagraph (A).

(E) TIMING OF ACCESS TO TEXTS.—Texts described in clauses (i), (ii), and (iii) of subparagraph (A) shall be made available to Members of Congress and their staff no later than the date on which such information is made available to the government of a foreign country that is a party to the TPP negotiations

(4) PUBLIC SUMMARIES OF TPP NEGOTIATION.—Not later than 30 calendar days after the date of the enactment of this Act, the United States Representative shall publish, on a publicly

available Internet website, detailed summaries for each chapter being negotiated under the TPP. Where appropriate, the summaries shall explain how the negotiations will achieve the negotiating instructions under section 2. The United States Trade Representative shall update these detailed summaries regularly, particularly before and after negotiating rounds.

(5) TECHNICAL ASSISTANCE.—The United States International Trade Commission shall, upon request, provide technical assistance to each Member of Congress with respect to analyzing the potential impacts of the TPP agreement.

(6) ACCREDITATION.—The United States Trade Representative, acting on behalf of the President, shall accredit a Member of Congress, upon request, as an official adviser to the TPP negotiations.

(b) DISAPPROVAL RESOLUTIONS WITH RESPECT TO ONGOING TPP NEGOTIATIONS.—

(1) BIENNIAL DISAPPROVAL RESOLUTION; DISCHARGE BY SIZEABLE MINORITY.—

(A) IN GENERAL.—The trade authorities procedures shall not apply to any implementing bill submitted with respect to the TPP agreement if, during the 120-day period beginning on the date that one House of Congress agrees to a disapproval resolution described in subparagraph (B) disapproving the TPP negotiations, the other House separately agrees to a disapproval resolution described in paragraph (B) disapproving of those negotiations.

(B) DISAPPROVAL RESOLUTION.—For purposes of this paragraph, the term "disapproval resolution" means a resolution, the sole matter after the resolving clause of which is as follows: "That the _____ disapproves the TPP negotiations and, therefore, the trade authorities procedures not apply to any implementing bill submitted with respect to the TPP.", with the blank space being filled with the name of the resolving House of Congress.

(C) PROCEDURES FOR CONSIDERING RESOLUTIONS.—

(i) Any disapproval resolution to which paragraph (1) applies—

(I) in the House of Representatives shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules, and may not be amended by either Committee; and

(II) in the Senate shall be referred to the Committee on Finance.

(ii) The provisions of section 152(c), (d), and (e) of the Trade Act of 1974 (19 U.S.C. 2192 (c), (d), and (e)) (relating to the consideration of certain resolutions in the House and Senate) apply to any disapproval resolution to which paragraph (1) or (2) applies if—

(I) there are at least 145 cosponsors of the resolution, in the case of a resolution of the House of Representatives, and at least 34 co-sponsors of the resolution, in the case of a resolution of the Senate; and

(II) no resolution that meets the requirements of clause (I) has previously been considered under such provisions of section 152 of the Trade Act of 1974 in that House of Congress during that Congress.

(iii) It is not in order for—

(I) the Senate to consider any joint resolution unless it has been reported by the Committee on Finance or the committee has been discharged pursuant to subparagraph (C)(ii); or

(II) the House of Representatives to consider any joint resolution unless it has been reported by the Committee on Ways and Means or the committee has been discharged pursuant to subparagraph (C)(ii).

(D) COMPUTATION OF CERTAIN TIME PERIODS.—Each period of time referred to in subparagraph (A) shall be computed without regard to—

(i) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

(ii) any Saturday and Sunday, not excluded under clause (i), when either House of Congress is not in session.

(2) COMMITTEE DISAPPROVAL RESOLUTION.—The trade authorities procedures shall not apply to an implementing bill submitted with respect to the TPP agreement if the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives passes a disapproval resolution regarding the TPP negotiations before the close of the 60-day period which begins on the date notice is provided under section 6(a)(1)(A)(iii).

SEC. 6. CONGRESSIONAL CONSIDERATION AND IMPLEMENTATION OF TPP.

(a) IN GENERAL.—

(1) NOTIFICATION AND SUBMISSION.—The TPP agreement shall enter into force with respect to the United States if (and only if)—

(A) the President—

(i) at least 90 calendar days before the day on which the President enters into a TPP agreement, notifies the House of Representatives and the Senate of the President's intention to enter into the TPP agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(ii) at least 60 days before the day on which the President enters into the TPP agreement, the TPP agreement is published on a publicly available Internet website of the Office of the United States Trade Representative; and

(iii) at least 60 days before the date notice is provided under clause (i), provides written notice of such negotiations to the Committee on Finance of the Sen-

ate and the Committee on Ways and Means of the House of Representatives;

(B) the advisory committee report required under section 135(e)(1) of the Trade Act of 1974 is provided to the President, the Congress, and the United States Trade Representative not later than 30 days after the date on which the President notifies the Congress under subparagraph (A)(i) of the President's intention to enter into the TPP agreement;

(C) not later than 60 days after entering into the TPP agreement, the President submits to the Congress a description of those changes to existing laws that the President considers would be required in order to bring the United States into compliance with the TPP agreement;

(D) after entering into the TPP agreement, the President submits to the Congress, on a day on which both Houses of Congress are in session, a copy of the final legal text of the TPP agreement, together with—

(i) a draft of an implementing bill described in section 4(b);

(ii) a statement of any administrative action proposed to implement the TPP agreement; and

(iii) the supporting information described in paragraph (2); and

(E) the implementing bill is enacted into law.

(2) SUPPORTING INFORMATION.—The supporting information required under paragraph (1)(D)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law, including any changes to United States statutes, regulations, or practices concerning food safety; and

(B) a statement—

(i) asserting that the TPP agreement achieves the applicable purposes, policies, priorities, and negotiating instructions under this Act; and

(ii) setting forth the reasons of the President regarding—

(I) how and to what extent the TPP agreement achieves the applicable purposes, policies, and negotiating instructions referred to in clause (i);

(II) whether and how the TPP agreement changes provisions of an agreement previously negotiated;

(III) how, and to what extent, the TPP agreement promotes production and employment in the United States, reduces income inequality, and results in broadly shared prosperity; and

(IV) how the TPP agreement serves the interests of United States commerce.

(3) RECIPROCAL BENEFITS.—In order to ensure that a foreign country that is not a party to the TPP agreement does not receive benefits under the TPP agreement unless the country is also subject to the obligations under the TPP agreement, the implementing bill submitted with respect to the TPP agree-

ment shall provide that the benefits and obligations under the TPP agreement apply only to the parties to the TPP agreement, if such application is consistent with the terms of the TPP agreement. The implementing bill may also provide that the benefits and obligations under the TPP agreement do not apply uniformly to all parties to the TPP agreement, if such application is consistent with the terms of the TPP agreement.

(4) DISCLOSURE OF COMMITMENTS.—Any agreement or other understanding with a foreign government or governments (whether oral or in writing) that relates to the TPP agreement with respect to which the Congress enacts an implementing bill under trade authorities procedures shall be disclosed to the Congress. Any such agreement or understanding that is not disclosed to the Congress before an implementing bill with respect to the TPP agreement is introduced in either House of Congress shall not be considered to be part of the TPP agreement approved by the Congress and shall have no force and effect under United States law or in any dispute settlement body.

(b) POST-NEGOTIATION REPORT.—

(1) IN GENERAL.—The President, at least 90 calendar days before the day on which the President enters into the TPP agreement, shall provide the United States International Trade Commission (referred to in this subsection as "the Commission") with the details of the TPP agreement as it exists at that time and request the Commission to prepare and submit an assessment of the TPP agreement as described in paragraph (2). Between the time the President makes the request under this paragraph and the time the Commission submits the assessment, the President shall keep the Commission current with respect to the details of the TPP agreement.

(2) REPORT.—Not later than 150 calendar days after the day on which the President enters into the TPP agreement, the President, working with the Commission, shall submit to the Congress a report regarding—

(A) the likely economic impacts of the TPP agreement, with respect to both tariff and nontariff barriers, including—

(i) specific market opportunities with regard to United States exports to each party to the TPP agreement and what imports from such country are expected to increase as a result of the TPP agreement;

(ii) the impact on employment, the median wage, and income disparities in the United States, based on an assumption that the United States is operating at less than full employment;

(iii) the impact on the bilateral United States trade imbalance with TPP parties and the overall United States trade imbalance; and

(iv) the impact on United States energy security and United States energy prices;

(B) the likely impact on United States Federal, State, and local regulation of labor, environmental and natural resources protection, food and drug safety, regulation of fi-

nancial markets, government procurement, and consumer protections;

(C) the economic, legal, and institutional framework of each TPP party, including the transparency of each TPP party's legal regime;

(D) an assessment of each TPP party's ability to fully implement the commitments of the TPP agreement with the United States. In providing such information, the President shall submit specific information on the compliance of each TPP party to existing trade agreements to which it is a party and what enforcement actions, if any, have been taken by the United States or other countries to achieve compliance;

(E) an assessment of the likely environmental impact of the TPP agreement, consistent with Executive Order 13141 of November 16, 1999, and its relevant guidelines; and

(F) an explanation, based on empirical evidence, of the rule of origin for automotive products, textile and apparel products, and other products where the rule of origin plays an important role in ensuring that the benefits of the TPP agreement flow to the TPP Parties.

(3) REVIEW OF EMPIRICAL LITERATURE.—In preparing the assessment, the Commission shall review available economic assessments regarding the TPP agreement, including literature regarding any substantially equivalent proposed agreement, and shall provide in its assessment a description of the analyses used and conclusions drawn in such literature, and a discussion of areas of consensus and divergence between the various analyses and conclusions, including those of the Commission regarding the TPP agreement.

(c) COMMITTEE VIEWS; REPORT AND RECOMMENDATION.—

(1) IN GENERAL.—Not later than 30 calendar days after receipt of a report under subsection (b), each committee of the House of Representatives and the Senate, and each joint committee of Congress, which has jurisdiction over legislation involving subject matters which would be affected by the TPP agreement shall—

(A) prepare a report evaluating the TPP agreement with respect to the issues in that committee's jurisdiction, including whether the relevant negotiating instructions under section 2 have been achieved;

(B) for a committee in the Senate, submit the report to the Committee on Finance; and

(C) for a committee in the House of Representatives, submit the report to the Committee on Ways and Means.

(2) REPORT AND RECOMMENDATION.—Not later than 30 calendar days after receipt of the views of all such congressional committees—

(A) the Committee on Finance of the Senate shall submit to the Senate TPP Advisory Group a report containing—

(i) the views of the committees of the Senate; and

(ii) a recommendation to approve or disapprove of applying trade authorities procedures to the TPP agreement; and

(B) the Committee on Ways and Means of the House of Representatives shall submit to the House TPP Advisory Group a report containing—

(i) the views of the committees of the House of Representatives; and

(ii) a recommendation to approve or disapprove of applying trade authorities procedures to the TPP agreement.

(d) TPP ADVISORY GROUPS APPROVAL RESOLUTIONS TO APPLY TRADE AUTHORITIES PROCEDURES TO TPP.—

(1) IN GENERAL.—Not later than 30 calendar days after receipt of the reports in subsection (c), each TPP Advisory Group shall vote as to whether it concurs—

(A) with the President's statement in subsection (a)(2)(B)(i) that the TPP agreement achieves the purposes, priorities, and negotiating instructions under section 2; and

(B) that the President has adequately consulted with Congress.

(2) The trade authorities procedures shall apply to a TPP agreement implementing bill only if a majority of the House TPP Advisory Group and a majority of the Senate TPP Advisory Group concurs.

(3) Each TPP Advisory Group may recommend provisions to be included in the implementing bill that are "necessary or appropriate" and may issue a report explaining its decision, including dissenting views. These provisions may include, for example:

(A) legislation to impose a WTO-consistent import fee or other measure to permanently fund food safety inspections of imports; and

(B) legislation addressing issues that directly relate to TPP parties, such as human rights.

(e) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—Subsection (d) of this section, section 4, and section 5(b) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such are deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

SEC. 7. ADDITIONAL TPP IMPLEMENTATION AND ENFORCEMENT REQUIREMENTS.

(a) IN GENERAL.—At the time the President submits to the Congress the final text of the TPP agreement pursuant to section 6(a)(1)(D), the President shall also submit a plan for implementing

and enforcing the TPP agreement. The implementation and enforcement plan shall include the following—

(1) BORDER PERSONNEL REQUIREMENTS.—A description of additional personnel required at border entry points, including a list of additional customs and agricultural inspectors.

(2) AGENCY STAFFING REQUIREMENTS.—A description of additional personnel required by Federal agencies responsible for monitoring and implementing the TPP agreement, including personnel required by the Office of the United States Trade Representative, the Department of Commerce, the Department of Agriculture (including additional personnel required to implement sanitary and phytosanitary measures in order to obtain market access for United States exports), the Department of the Treasury, the Department of Labor, and such other agencies as may be necessary.

(3) CUSTOMS INFRASTRUCTURE REQUIREMENTS.—A description of the additional equipment and facilities needed by U.S. Customs and Border Protection.

(4) IMPACT ON STATE AND LOCAL GOVERNMENTS.—A description of the impact the TPP agreement will have on State and local governments as a result of increases in trade.

(5) COST ANALYSIS.—An analysis of the costs associated with each of the items listed in paragraphs (1) through (4).

(b) BUDGET SUBMISSION.—The President shall include a request for the resources necessary to support the plan described in subsection (a) in the first budget that the President submits to the Congress after the submission of the plan.

SEC. 8. DEFINITIONS.

(1) CORE LABOR STANDARDS.—The term "core labor standards" means—

(A) freedom of association;

(B) the effective recognition of the right to collective bargaining;

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

(D) the effective abolition of child labor and a prohibition on the worst forms of child labor; and

(E) the elimination of discrimination in respect of employment and occupation.

(2) CORE MULTILATERAL ENVIRONMENTAL AGREEMENTS.—The term "core multilateral environmental agreements" means the following:

(A) The Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington, March 3, 1973, as amended.

(B) The Montreal Protocol on Substances that Deplete the Ozone Layer, done at Montreal, September 16, 1987, as adjusted and amended.

(C) The Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, done at London, February 17, 1978, as amended.

(D) The Convention on Wetlands of International Importance Especially as Waterfowl Habitat, done at Ramsar, February 2, 1971, as amended.

(E) The Convention on the Conservation of Antarctic Marine Living Resources, done at Canberra, May 20, 1980.

(F) The International Convention for the Regulation of Whaling, done at Washington, December 2, 1946.

(G) The Convention for the Establishment of an Inter-American Tropical Tuna Commission, done at Washington, May 31, 1949.

(3) MAY 10 AGREEMENT OF 2007.—The term "May 10 Agreement of 2007" means the Congressional-Executive accord, described in the Report of the Committee on Ways and Means on the United States-Peru Free Trade Promotion Agreement Implementation Act, Report 110–421 (November 5, 2007), which led to several changes to U.S. trade policy as reflected in modifications made to free trade agreements with Peru, Colombia, Panama, and South Korea, concerning provisions relating to labor, environment, access to medicines, investment, government procurement and essential security.

(4) GLAMIS GOLD.—The term "Glamis Gold" refers to the investor-state dispute settlement case under the North American Free Trade Agreement referred to as Glamis Gold, Ltd. v. United States (award dispatched to parties on June 8, 2009).

(5) INTERNATIONALLY RECOGNIZED HUMAN RIGHTS.—The term "internationally recognized human rights" means those rights reflected in the United Nations Universal Declaration of Human Rights, done at Paris, December 10, 1948.

SANDER M. LEVIN.

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