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

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

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

SECTION 1. SHORT TITLE.

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

SEC. 2. DEFINITIONS.

In this Act:

(1) CORE LABOR STANDARDS.—The term “core labor standards” means the core labor rights as stated in the Conventions of the International Labour Organization relating to—

(A) freedom of association and the effective recognition of the right to collective bargaining;
(B) elimination of all forms of forced or compulsory labor;

(C) effective abolition of child labor; and

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

(2) **FUNDAMENTAL HUMAN RIGHTS.**—The term “fundamental human rights” means the rights enumerated in the United Nations Universal Declaration of Human Rights.

(3) **MAJOR U.S. TRADE PARTNERS.**—The term “major U.S. trade partners” means Belgium, Brazil, the People’s Republic of China, France, Germany, Hong Kong, India, Ireland, Italy, Japan, the Republic of South Korea, Malaysia, the Netherlands, Taiwan, and the United Kingdom.

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

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

(6) TRADE AGREEMENTS.—

(A) IN GENERAL.—Except as provided in section 4, the term “trade agreement” means—

(i) the North American Free Trade Agreement;

(ii) the Dominican Republic-Central America-United States Free Trade Agreement; and

(iii) the Agreement Between the United States of America and the Hashemite Kingdom of Jordan on the Establishment of a Free Trade Area.

(B) URUGUAY ROUND AGREEMENTS.—Except as provided in section 4, the term “trade agreement” means—

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

(ii) the WTO Agreement described in section 2(9) of the Uruguay Round Agreements Act (19 U.S.C. 3501(9));
(iii) any other agreement described in section 101(d) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)); and

(iv) any multilateral agreement entered into by the United States under the auspices of the World Trade Organization, including any agreement relating to information technology, telecommunications, or financial services.

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

(a) Review and Report.—

(1) In General.—Not later than 270 days after the date of the enactment of this Act, and every 2 years thereafter, the Comptroller General of the United States shall—

(A) conduct a review of all trade agreements in force at the time of the review for the purpose of evaluating the economic, environmental, national security, health, safety, and other effects of the trade agreements; and

(B) submit to the Congressional Trade Agreement Review Committee established under section 6 a report that includes the information
described under subsections (b) and (c) and the
recommendations required under subsection (d).

(2) COOPERATION OF AGENCIES.—The Sec-
retary of State, the Secretary of Agriculture, the
Secretary of Commerce, the Secretary of Labor, the
Secretary of the Treasury, and the heads of other
Federal departments and agencies shall cooperate
with the Comptroller General for purposes of facili-
tating preparation of the report.

(3) INFLATION-CONTROLLED DOLLARS.—Data
expressed in terms of United States dollars should
be in inflation adjusted terms unless otherwise indi-
cated.

(b) INFORMATION WITH RESPECT TO TRADE
AGREEMENTS.—The report required by subsection (a)
shall, with respect to each trade agreement, to the extent
practicable, include the following information covering the
period between the date on which the trade agreement en-
tered into force with respect to the United States and the
date on which the Comptroller General completes the re-
view:

(1) An analysis of indicators of the economic
impact of each trade agreement, including the fol-
lowing:
(A) The employment effects of the trade agreement on job gains and losses in the United States delineated by industry, year, and State, taking note of specific firm, industry, or regional cases of substantial trade agreement-related employment losses or gains, including a list of the top ten industries that experienced employment gains and losses in the United States. In addition to utilizing existing government data, the Comptroller General shall develop and utilize a labor requirements model derived from detailed input-output tables to estimate the number of jobs supported or displaced by shifts in the level and rate of change of United States net exports and investment flows.

(B) The effects of the trade agreement on changes in relative and absolute wage levels, income distribution by decile, and hours worked by sector and State, on a year-to-year basis, in the United States. In addition to utilizing existing government data, the Comptroller General shall develop and utilize factor content analyses, product price regressions, computable general equilibrium models, and other applicable methods to isolate the impact of the trade agreement
(and its associated investment flows) on changes in relative and absolute wages and income distribution by education, skill level, and trade-sensitivity of various sectors, controlling for appropriate indicators such as region, race, and gender.

(C) The dollar value of domestic exports of the United States and imports for consumption into the United States delineated, to the extent such information is available, by—

(i) Standard International Trade Classification (SITC)-5,

(ii) Standard Industrial Classification (SIC)-4,

(iii) North American Industry Classification (NAIC)-6,

(iv) the 10-digit classification number under the Harmonized Tariff Schedule of the United States,

(v) year, and

(vi) trade-partner country,

including listing those goods for which there has been a change in 10 percent or more in bilateral trade flows.
(D) The share of global production, productive capacity, investment, exports and employment, and other indicators of the competitive position (such as productivity gains and patents registered) of industries in the United States significantly affected by the trade agreement, taking note of major production and employment offshoring trends and changes in sourcing patterns before and after entry into force of the trade agreement with respect to the United States.

(2) An analysis of the effect on agriculture and food-related outcomes, including the following:

(A)(i) The trend, on a year-by-year basis, of prices and production volumes in the United States, and exports from and imports into the United States, of agricultural commodities, food products, and ingredients thereof, that are imported in significant volume into the United States from a country that is a party to the trade agreement.

(ii) For purposes of this subparagraph—

(I) the term “significant volume” means, with respect to agricultural commodities, food products, or ingredients, 10
percent or more of domestic consumption
of such agricultural commodities, food
products, or ingredients; and

(II) imports of such agricultural com-
modities, food products, and ingredients
shall be measured according to the 4-digit
classification of the commodities, products,
and ingredients under the Harmonized
Tariff Schedule of the United States.

(B) An analysis of the effects, if any, on
the cost of agricultural programs in the United
States.

(C) The number of farms operating in the
United States, detailed by farm typology and
sales level, and the number of acres under pro-
duction by crop, for agricultural commodities
that are exported from the United States to a
country that is a party to the trade agreement,
on a year-by-year basis.

(D) An analysis of the effects, if any, on
market concentration, prices, and fair competi-
tion in the markets for agricultural commodities
and food products that are subject to signifi-
cant volumes of trade between the United
States and each other country that is a party to the trade agreement.

(3)(A) An analysis of the progress in implementing commitments under the trade agreement, and the record of compliance with the terms of the trade agreement, by—

(i) each country that is a party to the trade agreement, in the case of a trade agreement described in section 2(6)(A); and

(ii) by each of the major U.S. trade partners, in the case of a trade agreement described in section 2(6)(B).

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

(4) An analysis of the ability of the United States to ensure that each other country that is a party to the trade agreement complies with United States laws and regulations, including—

(A) complying with the customs laws of the United States;
(B) making timely payment of duties owed on goods imported into the United States, including, in such analysis, the amount of duties paid by such other country;

(C) meeting safety and inspection requirements with respect to food and other products imported into the United States from such other country;

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

(E) enforcing the trade agreement, including preventing dumping, subsidies, and circumvention.

(5) An analysis of any privatization of public sector services in the United States or in any other country that is a party to the trade agreement, if the service involved is covered by the investment, financial services, or services provisions of the trade agreement, including any effect such privatization has on the access of consumers to essential services, such as health care, electricity, gas, water, telephone service, or other utilities.

(6) An assessment of the impact of the intellectual property provisions of the trade agreement on
the retail price of pharmaceuticals in any country
that is a party to the trade agreement and the ef-
fect, if any, that changes in the price of pharma-
ceuticals have had on access by consumers to medi-
cines.

(7) An analysis of the impact of government
procurement rules in the trade agreement on the
procurement of goods or services by United States
Federal or State government agencies, including an-
annual information on the value of goods and services
procured, delineated by Federal or State government
and agency, by good or service procured, and by the
country from which the good or service originated.

(8) An assessment of the impact of significant
currency movements, currency misalignment, or cur-
currency manipulation on the bilateral trade balance be-
tween the United States and each other country that
is a party to the trade agreement and each of the
major U.S. trade partners.

c) INFORMATION ON COUNTRIES THAT ARE PAR-
ties to Trade Agreements.—With respect to each
country with which the United States has a trade agree-
ment in effect, the report required under subsection (a)
shall include information regarding whether that coun-
try—
(1) has a democratic form of government;

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

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

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

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

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

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

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

(9) adequately protects intellectual property rights;

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

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

(d) RECOMMENDATIONS.—The report required under subsection (a) shall include recommendations of the Comptroller General for addressing issues with respect to a trade agreement that are identified under subsections (b) and (c). The recommendations shall include suggestions for renegotiating the trade agreement based on the
requirements described in section 4(b) and for negotia-
tions with respect to new trade agreements.

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

(f) Trend Analysis.—The report required under
subsection (a) shall include a trend analysis of relative and
absolute wage levels on a year-to-year basis in—

(1) each country with which the United States
has a trade agreement described in section 2(6)(A);

(2) each major U.S. trade partner;

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

(4) Cambodia.

(g) Public Comment.—In preparing the report re-
quired under subsection (a), the Comptroller General
shall—

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

and

(2) provide an opportunity for members of the
public to testify and submit written comments.
(h) Public Availability.—The information in each report required under subsection (a) shall be made available to the public not later than 14 days after the Comptroller General completes the report.

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

(a) In General.—

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

(2) Trade agreement defined.—For purposes of this section, the term “trade agreement” means any trade agreement entered into between the United States and one or more countries.

(b) Requirements.—The requirements referred to in subsection (a) regarding a trade agreement between the United States and another country are the following:
(1) Labor Standards.—The labor provisions shall—

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

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

(i) to adopt and maintain as part of its domestic law and regulations (including in any designated zone in that country) the core labor standards; and

(ii) to effectively enforce laws related to core labor standards and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health;

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

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

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

(F) provide for the establishment of a commission comprised of individuals with international and comparative labor rights expertise, including representatives of independent labor unions of countries that are parties to the trade agreement, representatives of exporting businesses of countries that are parties to the trade agreement, and independent academic researchers, to receive, investigate, review, and participate in the adjudication of any complaint filed under the labor provisions of the trade agreement, and vest the commission with the authority to establish objective indicators to determine compliance with the obligations set forth in subparagraphs (B), (C), and (D); and

(G) require each country that is a party to the trade agreement to cooperate fully with in-
vestigations by the commission required under
subsection (F).

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

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

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

(C) prohibit each country that is a party to
the trade agreement from waiving or otherwise
derogating from its laws and regulations relat-
ing to fundamental human rights;

(D) provide that failures to meet the fund-
damental human rights required by the trade
agreement shall be subject to effective dispute
resolution and enforcement mechanisms and
penalties that are included in the core text of
the trade agreement and that are at least as ef-
fектив as the mechanisms and penalties that
apply to the commercial provisions of the trade
agreement;
(E) strengthen the capacity of each country that is a party to the trade agreement to promote and enforce fundamental human rights;

(F) provide for the establishment of a commission composed of representatives specializing in international and comparative human rights, including representatives of independent human rights organizations of countries who are parties to the trade agreement and academic researchers, to receive, investigate, review, and participate in the adjudication of any complaint filed under the human rights provisions of the trade agreement, and vest the commission with the authority to establish objective indicators to determine compliance with the obligations set forth in subparagraphs (B), (C), and (D); and

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

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

(A) be included in the core text of the trade agreement;
(B) prohibit each country that is a party to the trade agreement from weakening, eliminating, or failing to enforce domestic environmental or other public health or safety standards to promote trade or attract investment;

(C) require each country that is a party to the trade agreement to implement and enforce fully and effectively, including through domestic law, the country’s obligations under multilateral environmental agreements and provide for the enforcement of such obligations under the trade agreement;

(D) prohibit the trade of goods derived from illegally harvested or extracted natural resources, at any stage of production, including timber and timber products, fish, wildlife, and associated products, mineral resources, and other environmentally sensitive goods;

(E) provide that the failure to meet the environmental standards required by the trade agreement be subject to dispute resolution and enforcement mechanisms and penalties that are at least as effective as the mechanisms and penalties that apply to the commercial provisions of the trade agreement; and
(F) allow each country that is a party to the trade agreement to adopt and implement environmental, health, and safety standards, recognizing the legitimate right of governments to protect the environment and public health and safety.

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

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

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

(C) allow each country that is a party to the trade agreement to impose standards de-
signed to protect public health and safety unless it can be clearly demonstrated that such
standards do not protect the public health or safety;

(D)(i) authorize the Commissioner of Food and Drugs and the Consumer Product Safety
Commission to assess the regulatory system of each country that is a party to the trade agree-
ment to determine whether the system provides the same or better protection of health and
safety for food and other products as provided under the regulatory system of the United
States and authorize other appropriate United States Federal agencies to assess the regulatory
system of each country that is party to the trade agreement to determine whether the sys-
tem provides the same or better quality controls on manufactured goods as provided under the
regulatory system of the United States;

(ii) if the Commissioner or the Commission determines that the regulatory system of such
a country does not provide the same or better protection of health and safety for food and
other products as provided under the regulatory system of the United States, or another appro-
priate agency determines that the regulatory system of such a country does not provide the same or better quality controls on manufactured goods as provided under the regulatory system of the United States, provide that the United States may prohibit the importation into the United States of food and other products from that country; and

(iii) provide a process by which producers from countries whose regulatory systems are determined pursuant to clause (ii) by the Commissioner, the Commission, or another appropriate agency not to provide the same or better protection or quality controls as that provided under the regulatory system of the United States may have specific facilities inspected and certified so as to allow products from approved facilities to be imported into the United States; and

(E) if harmonization of food or product health or safety standards is necessary to facilitate trade, provide that such harmonization be based on standards that are no less stringent than standards in the United States.
(5) Services provisions.—If the trade agreement contains provisions related to the provision of services, such provisions shall—

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

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

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

(C) establish a general exception to market access obligations that allows each country that is a party to the trade agreement to maintain or establish a ban on services that the country considers harmful to public health or safety, the environment, or public morals, if the ban is applied to domestic and foreign services and service providers alike;
(D) require service providers of each country that is a party to the trade agreement that provide services through commercial presence in the United States to consumers in the United States to comply with environmental, land use, safety, privacy, transparency, professional qualification, and consumer access laws and regulations in the United States;

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

(F) not require the privatization of public services in any country that is a party to the trade agreement or the deregulation of a service, including services related to national security, social security, health, public safety, education, water, sanitation, other utilities, ports, or transportation;
(G) not subject local governments to the service sector obligations under the trade agreement;

(H) not include provisions with respect to immigration or the movement of natural persons; and

(I) not limit any nondiscriminatory national, regional, or local government program that establishes reimbursement rates under public health insurance programs, or otherwise controls the costs of pharmaceuticals or medical devices.

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

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

(B) allow each country that is a party to the trade agreement to place prudential restrictions on speculative capital to reduce global financial instability and trade volatility;
(C) not be subject to an investor-state dispute settlement mechanism under the trade agreement;

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

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

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

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

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

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

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

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

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

(i) prevailing wage policies;

(ii) recycled content policies;

(iii) sustainable harvest policies;

(iv) renewable energy policies;
(v) human rights; or

(vi) project labor agreements.

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

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

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

(C) require that any provisions relating to the patenting of traditional knowledge be consistent with the Convention on Biological Diversity, concluded at Rio de Janeiro June 5, 1992; and
(D) ensure that the access of the public to essential medicines and to technologies critical to preventing climate change is not obstructed by any provision of the trade agreement relating to the protection of intellectual property rights.

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

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

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

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

(D) ensure fair treatment of agricultural workers in each country that is a party to the trade agreement;

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

(F) protect the right of each country that is a party to the trade agreement to establish policies with respect to food and agriculture that require farmers to receive fair remuneration for management and labor that occurs on farms and that allow for inventory management and strategic food and renewable energy reserves, while ensuring that such policies do not aid or abet, or otherwise contribute to or allow, the dumping of agricultural commodities onto world markets at below the cost of production;

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

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

(10) Trade remedies and safeguards.—If the trade agreement contains trade remedy provisions, such provisions shall—

(A) preserve fully the ability of the United States to enforce its trade laws, including antidumping and countervailing duty laws and safe-
guard laws, the right to calculate 100 percent
of the dumping in all antidumping proceedings,
and the right to disburse domestically anti-
dumping and countervailing duties as the
United States so determines;

(B) not decrease the effectiveness of do-
mestic and international prohibitions on unfair
trade, especially prohibitions on dumping and
subsidies, and domestic and international safe-
guard provisions;

(C) establish mechanisms to address and
remedy market distortions that lead to dumping
and subsidization, including overcapacity, car-
telization, and market-access barriers, by im-
posing strong sanctions against subsidies, in-
cluding applying the countervailing duty law
when exporters receive tax rebates for indirect
taxes upon export;

(D) allow the United States to maintain
adequate safeguards for a minimum of two
years to ensure that surges of imported goods
do not result in economic burdens on workers,
firms, or farmers in the United States, includ-
ing providing that such safeguards go into ef-
fect based on certain criteria;
(E) establish mechanisms among the parties to the trade agreement to examine the trade consequences of significant currency movements and to scrutinize whether a party’s currency is misaligned to promote a competitive advantage in international trade; and

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

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

(A) incorporate due process rules and procedures, including ensuring that dispute resolution proceedings are open to the public, that public access to information regarding enforcement, disputes, and ongoing negotiations related to disputes is provided in a timely manner, and that conflict of interest rules apply fully to adjudicators;
(B) require that any dispute settlement panel, including an appellate panel, addressing issues involving intellectual property rights or environmental, health, labor, human rights, or other public interest issues include panelists with expertise in such issues;

(C) require an expedited process for all dispute settlement panels and processes relating to violations of an agreement’s labor, human rights, and environmental obligations, recognizing that environmental and labor rights and the health, safety, and freedom of people and possibly irreversible damage to the physical environment are fundamentally different than property rights and thus require establishment of more expeditious timelines, together with the necessary resources for oversight and enforcement; and

(D) require that panels reviewing antidumping and countervailing duty proceedings of a party to the trade agreement apply a standard of review that gives deference to the administering authority of the party whose measure is under review.
(12) **Technical assistance.**—If the trade agreement contains technical assistance provisions, such provisions shall—

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

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

(C) provide that technical assistance shall not substitute for or supplant economic assistance and not promote exportation of goods produced with the exploitation of labor or unsustainable environmental practices.

(13) **Exceptions for national security and other reasons.**—Each agreement shall—

(A) include an essential security exception that permits a country that is a party to the trade agreement to apply measures that the country considers necessary for the maintenance or restoration of international peace or security, or the protection of its own essential security interests, including with respect to in-
frastructure, services, manufacturing, and other sectors;

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

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

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

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

(15) TAXATION.—Each agreement shall provide for border tax equity for United States producers and United States exporters in the assessment and rebate of indirect taxes (such as consumption and sales taxes), including by—

(A) prohibiting the imposition of such taxes on United States exports when imported in excess of the level of such taxes applied at the border by the United States to imports from parties to the trade agreement, or

(B) prohibiting the rebate of taxes on exports in amounts in excess of any such taxes rebated by the United States on United States
exports in excess of any such taxes rebated by
the United States,
or by adopting measures under both subparagraphs
(A) and (B).

SEC. 5. RENEGOTIATION OF EXISTING TRADE AGREEMENTS.

(a) PLAN.—The President shall, at the times specified under subsection (b), submit to the Congress a plan for renegotiating each trade agreement that is in effect on the date of the enactment of this Act to bring the trade agreement into compliance with the requirements of section 4(b).

(b) TIMING.—The plan under subsection (a) shall be submitted not later than 90 days before the earlier of the day on which the President—

(1) initiates negotiations with a foreign country with respect to the trade agreement being renegotiated; or

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

SEC. 6. ESTABLISHMENT OF CONGRESSIONAL TRADE AGREEMENT REVIEW COMMITTEE.

(a) ESTABLISHMENT.—There is established a Congressional Trade Agreement Review Committee (in this section referred to as the “Committee”).
(b) FUNCTIONS.—

(1) IN GENERAL.—The Committee—

(A) shall receive the reports of the Comptroller General of the United States submitted to the Committee under section 3(a)(1)(B);

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

(C) may, not later than 60 days after receiving the plan described in subparagraph (B), taking into account the reports of the Comptroller General referred to in subparagraph (A), add items for renegotiation to the plan, reject recommendations in the plan, or otherwise amend the plan.

(2) ACTION BY VOTE.—Action by the Committee under paragraph (1)(C) requires a vote of 2/3 of the Members of the Committee.

(c) APPOINTMENT AND MEMBERSHIP.—The Committee shall be composed of the chair and ranking members of the following:

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

(2) The Committee on Education and Labor of the House of Representatives.
(3) The Committee on Energy and Commerce of the House of Representatives.

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

(5) The Committee on Natural Resources of the House of Representatives.

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

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

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

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

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


(12) The Committee on Finance of the Senate.


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

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

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

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

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

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

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

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

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

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

(6) a process—

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

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

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