

The Bipartisan Congressional Trade Priorities and Accountability Act of 2015
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REPORT

[To accompany S. 995]

Including cost estimate of the Congressional Budget Office

The Committee on Finance, to which was referred the bill (S. 995) to establish congressional trade negotiating objectives and enhanced consultation requirements for trade negotiations, to provide of consideration of trade agreements, and other purposes, reports favorably thereon and recommends that the bill as amended do pass.

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I. REPORT OF THE COMMITTEE

The Committee on Finance, to which was referred the bill (S. 995) to establish congressional trade negotiating objectives and enhanced consultation requirements for trade negotiations, to

provide of consideration of trade agreements, and other purposes, reports favorably thereon and recommends that the bill as amended do pass.

II. SUMMARY

The Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (S. 995) establishes rules for the implementation of international trade agreements that the President concludes prior to July 1, 2018, with the possibility of extension through July 1, 2021. The bill would provide the President with the authority to proclaim modifications to certain tariff rates in order to implement such agreements. Where specific conditions have been met, legislation to implement trade agreements – including tariff reductions not subject to proclamation authority and other changes to current U.S. law – would be subject to agreed upon procedures (known as “trade authorities procedures”) for consideration in the House of Representatives and the Senate. Under these trade authorities procedures, a bill to implement a qualifying trade agreement would not be subject to amendment and would be guaranteed a vote in each Chamber by a date certain.

For implementing legislation to qualify for trade authorities procedures, the underlying trade agreement must make progress toward achieving the applicable objectives, policies, and priorities set forth in the bill. Furthermore, the President must consult regularly with Members of Congress regarding agreements under negotiation. Congress retains the right to withdraw the application of trade authorities procedures to an agreement or agreements in the event the President fails to consult as required.

Trade authorities procedures for trade agreement implementing legislation were last enacted in 2002 and extended in 2005 with respect to agreements entered into before July 1, 2007. It is expected that the present extension of trade authorities procedures will guide the President's efforts to conclude a free trade agreement with the Trans-Pacific Partnership countries, a free trade agreement with the European Union, agreements entered into under the auspices of the World Trade Organization (WTO), agreements with respect to the international trade in services and with respect to environmental goods entered into with WTO members, as well as other agreements entered into under the auspices of the WTO and efforts to conclude additional agreements the President may identify during the period covered by the bill.

III. GENERAL EXPLANATION

A. BACKGROUND

Article I, section 8, clause 2 of the Constitution grants the power to regulate foreign commerce to Congress. Congress has historically exercised that power through legislation regulating imports of goods, services, and investment into the United States. For the first 145 years of the Republic, Congress exercised its power over trade policy by setting tariffs directly through frequent enactment of tariff acts, establishing in detail duty rates for individual imports.

The high tariffs enacted in the Trade Act of 1930 (the Smoot-Hawley tariff) and the deepening economic depression of the early 1930s, however, led Congress to establish new tariff-setting roles for the legislative and executive branches. Under the Reciprocal Trade Agreements Act of 1934 (P.L. 73-316), Congress authorized the President to negotiate reciprocal reductions of tariffs, within a limited range and time period, and to implement them by proclamation without the need for implementing legislation.

Under the Trade Agreements Program initiated by Secretary of State Cordell Hull under authority of the 1934 Act, the United States negotiated selective reciprocal tariff agreements with many countries prior to, and during, World War II. Following the war and for the next several decades, Congress extended the President's tariff-cutting authority a number of times. Under this authority, the President negotiated reductions in tariff levels multilaterally in five rounds under the General Agreement on Tariffs and Trade (GATT) and afterward proclaimed the lower tariffs under the authority Congress had delegated.

The sixth round of multilateral trade negotiations, called the Kennedy Round (1964-67), involved negotiations on nontariff as well as tariff barriers. Congress had extended presidential tariff-cutting authority for the Kennedy Round under the Trade Expansion Act of 1962 (P.L. 87-794). That authority did not include negotiation of nontariff barriers. Nonetheless, the Administration negotiated agreements that involved two nontariff barriers: (1) the American Selling Price (ASP), which was a relatively high U.S. import valuation based on domestic producer prices that primarily protected the U.S. chemical industry; and (2) a code, or set of rules, on antidumping. Although the 1962 Act, like the 1934 Act, authorized the President to negotiate a reduction of "any existing duty or other import restriction," the view in Congress was that by entering into the antidumping agreement, the President had overstepped his delegated power. Congress subsequently did not enact legislation to implement the agreements with respect to the two nontariff barriers.

The decision by Congress not to approve the nontariff commitments made by the President posed a dilemma in terms of the implementation of any agreement that called for reciprocal reductions in nontariff measures. Consistent with its constitutional responsibilities, Congress could not delegate authority to the President to revise U.S. domestic law by proclamation in the manner it had delegated the authority to proclaim changes in tariffs. At the same time, Congress recognized that the President, as a practical matter, might be unable to conclude future trade agreements unless he could assure U.S. trading partners that the agreement would be considered in a timely manner and would not be amended by Congress after the fact.

In the early 1970s, in anticipation of a seventh round of multilateral negotiations that was to include nontariff barriers, Congress considered a new type of negotiating authority to grant the

President proclamation authority for nontariff barriers much like the previously granted authority for tariffs. The proposed legislation would have allowed the President to reach a nontariff agreement, submit it to Congress, and unless Congress legislatively disapproved the agreement, the President would put the changes into effect by proclamation. There would be no need for implementing legislation. Legislation granting the President nontariff proclamation authority was passed by the House but stopped in the Senate.

In the Trade Act of 1974, Congress enacted procedures that, in its view, properly balanced the objectives of enabling the President to negotiate reciprocal reductions of nontariff barriers while maintaining Congressional authority over changes to U.S. law. These procedures came to be known as the “fast track,” and more recently Trade Promotion Authority (TPA), procedures for the consideration of legislation implementing trade agreements. The procedures were designed to preserve Congress’ constitutional role in the regulation of foreign commerce, while offering the President and U.S. trading partners the assurance that a trade agreement requiring changes in U.S. law would receive an up-or-down vote within a time certain when brought before Congress.

In order for a trade agreement to qualify for these procedures, Congress required that the President would have to consult with the appropriate congressional committees before and during the negotiation of the agreement and to give notice to Congress at least 90 days before entering into the agreement. The President was also required to submit implementing legislation, a statement of administrative actions to be taken to implement the agreement, and reasons why the agreement serves the interests of U.S. commerce. At the time, there was little, if any, controversy about the procedures Congress had created; to the contrary, the commonly held view was that Congress had achieved an enlarged role in trade negotiations by imposing consultation and notification requirements.

Congress has preserved the basic structure of the Trade Act of 1974 each time it has renewed the procedures for the consideration of trade agreements. These provisions are contained in Sections 151-154 of the 1974 Act, as amended. The trade agreement approval procedures under the 1974 Act are not subject to sunset provisions, but Congress must periodically reauthorize the President to negotiate agreements that will qualify for the procedures. Over the years, Congress has periodically renewed and revised the procedures.

The negotiating authority in the 1974 Act enabled the Administration to negotiate the Tokyo Round of multilateral trade negotiations (1974-79) under the General Agreement on Tariffs and Trade (GATT). After the Tokyo Round was completed, this Committee took the position that Congress should have an active role in drafting the legislation to implement the agreement. The result was that the Committee considered a draft of the implementing bill through a “mock” legislative process, with committee consideration, amendments, and conference committee. The President then submitted final legislation to Congress based on the results of the “mock”

legislative process. Although not formally outlined in any document, the executive and legislative branches thus agreed on a process that allowed congressional involvement in crafting legislation that would eventually be formally considered under expedited procedures. The so-called “mock-markup” process continues to this day.

In the Trade Agreements Act of 1979 (P.L. 96-39), the procedures for the consideration of trade agreements were renewed for eight years. The Trade and Tariff Act of 1984 (P.L. 98-573) amended the 1974 Act by providing for the negotiation of bilateral free trade agreements (FTAs). Agreements were subsequently negotiated with Israel and Canada.

The Omnibus Trade and Competitiveness Act of 1988 extended the procedures for the consideration of trade agreements for an additional five years, during which time legislation to implement the North American Free Trade Agreement (NAFTA) in 1993 was enacted. The Uruguay Round of multilateral trade negotiations under the GATT, launched in 1986, was concluded after an extension to the 1988 Act, and the Uruguay Round Agreements Act (P.L. 103-465) was enacted under the authority of 1988 Act.

The launch of the Doha Round of World Trade Organization (WTO) negotiations in November 2001, and the Bush Administration’s interest in bilateral FTA negotiations, including with Chile and Singapore, led to the enactment of the Bipartisan Trade Promotion Authority Act of 2002 on August 6, 2002 (P.L. 107-210). Authority provided under this Act was used to implement eleven FTA implementing bills, including with respect to FTAs with Chile (2003), Singapore (2003), Australia (2004), Morocco (2004), the Dominican Republic-Central American Free Trade Agreement (CAFTA-DR) countries (2005), Bahrain (2006), and Oman (2006). FTAs with Colombia, Panama, Peru, and South Korea were concluded prior to the expiration of the 2002 authorities on July 1, 2007, and legislation to implement these FTAs was enacted for Peru in 2008 and Colombia, Panama and South Korea in 2011. Negotiations for the WTO Doha Round have not yielded an agreement requiring congressional action.

The Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (S.995) is being considered for the ongoing negotiations of the Trans-Pacific Partnership (TPP) agreement, the Trans-Atlantic Trade and Investment Partnership (T-TIP) being negotiated with the European Union (EU), the Trade in Services Agreement (TISA) being negotiated with certain members of the WTO seeking to expand the scope of the WTO Trade in Services Agreement (GATS), and an Environmental Goods Agreement (EGA) being negotiated with certain members of the WTO. It may also be used to implement any agreement resulting from the WTO Doha Round of negotiations, or any other trade negotiations concluded by the President before July 1, 2018 or July 1, 2021 if no extension disapproval resolution is adopted. Trade authorities procedures would also apply to additional trade negotiations that may begin after approval of this Act but have not yet been notified to Congress.

The TPP is a proposed regional free trade agreement being negotiated among the United States, Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam. U.S. negotiators describe the TPP as a “comprehensive and high-standard” FTA that aims to liberalize trade in nearly all goods, including agriculture, and services and contain rules-based commitments beyond those currently established in the World Trade Organization (WTO). The negotiations have been underway since 2010, and a broad outline of an agreement was announced in November 2011. If concluded as envisioned, the TPP potentially could significantly reduce tariff and nontariff barriers to trade and investment among the parties and could serve as a template for a future trade pact among Asia-Pacific Economic Cooperation forum (APEC) members and potentially other countries.

The T-TIP is a proposed “comprehensive and high-standard” FTA being negotiated between the United States and the European Union (EU). Formal negotiations commenced in July 2013. The United States and the EU seek to enhance trade and market access by addressing remaining transatlantic barriers to trade and investment in goods and services, while seeking to establish new rules-based commitments and to address nontariff regulatory barriers.

TISA is a proposed sectoral trade agreement among 23 countries, including the EU, launched in April 2013. It seeks to expand commitments to the WTO General Agreement on Trade in Services (GATS). While this negotiation is not being conducted under the auspices of the WTO, it may be incorporated into the GATS in the future.

The Environmental Goods Agreement (EGA) is a proposed sectoral trade agreement which was announced in January 2014 by 14 countries, including the United States, representing 86% of global trade in goods such as wind turbines, solar panels or advanced batteries. The talks are expected to be handled as an open plurilateral, i.e., the agreed tariff reduction or elimination would be applied on a most-favored-nation (MFN) basis to all WTO members, similar to the 1996 WTO Information Technology Agreement.

B. ACTION IN COMMITTEE

1. Hearings

On January 22, 2015 the Committee held a hearing on Jobs and a Healthy Economy which discussed the important role of international trade in creating and sustaining a healthy U.S. economy as well as the need to renew Trade Promotion Authority. On January 27, 2015 the Committee discussed the role of Trade Promotion Authority in advancing America’s international trade agenda during a hearing with United States Trade Representative Michael Froman on President Obama’s 2015 Trade Policy Agenda.

On April 16 and 21, 2015, the Committee held a hearing entitled Congress and U.S. Tariff Policy which included robust discussion on the Bipartisan Congressional Trade Priorities and Accountability Act of 2015. On April 16, 2015, the Committee heard testimony from Secretary of the Treasury Jacob Lew, Secretary of Agriculture Tom Vilsack, and United States Trade Representative Michael Froman. On April 21, 2015, the Committee heard testimony from Thomas Donahue, President and Chief Executive Officer of the United States Chamber of Commerce, and Richard Trumka, President of the AFL-CIO.

In general, witnesses expressed support for creating high-quality jobs and expanding opportunities for American businesses through increased U.S. trade taking advantage of U.S.-led trade agreements. Witnesses stated that increasing access to foreign markets for U.S. exports through enhanced trade opportunities should be a priority for the United States. Witnesses also noted that U.S. trade supports good jobs, spurs growth, and strengthens the American middle class, while sustaining American strength and influence abroad. The witnesses generally agreed that Trade Promotion Authority is a critical tool for achieving those objectives, and that there is a need to update Trade Promotion Authority since it was last enacted in 2002.

One witness expressed a view in favor of an approach to trade and globalization based on including labor and environmental provisions that go beyond those found in recent U.S. FTAs., elimination of investor-state dispute settlement, and requiring enforceable currency provisions in trade agreements. The witness also favored changes to the process for considering trade agreements, including changes to rules on transparency, restrictions on expedited procedures for the consideration of bills implementing trade agreements, and other policies such as enforcement.

Another witness noted that while the U.S. market is largely open to imports from around the world, foreign governments continue to maintain tariffs on U.S. exports that in some cases are quite high, and often erect other kinds of barriers against U.S. goods and services. The need for U.S. trade agreements to address these barriers and establish U.S.-led rules for international trade was agreed on by the witnesses.

2. Consideration of Legislation

On April 16, 2015, S. 995 was read twice and referred to the Committee on Finance. The Committee held a meeting to consider the bill on April 22, 2015. A motion to report the bill as amended was approved by a vote of 20 to 6.

IV. SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The short title of the bill is the “Bipartisan Congressional Trade Priorities and Accountability Act of 2015.”

Section 2. Trade negotiating objectives

Summary

Section 2 of the bill sets forth the objectives, policies, and priorities of the United States in negotiating trade agreements. In order for legislation implementing a trade agreement to qualify for consideration under the trade authorities procedures set forth in section 3 of the bill, the President must state that the agreement makes progress in achieving the applicable purposes, policies, priorities, and objectives of the bill. Further, these purposes, policies, priorities, and objectives should serve as the basis for consultations between the President and Congress during the course of an agreement's negotiation.

Section 2 is organized into three subsections defining the trade negotiating positions of the United States. Subsection (a) addresses overall objectives – that is, goals that cut across sectors and issue areas. Subsection (b) addresses objectives that are specific to particular sectors, such as goods, services, and agriculture, and particular issue areas, such as investment, intellectual property, digital trade in goods and services, the intersection between trade and core labor standards and trade and the environment, and currency practices. Subsection (c) addresses capacity building and other priorities that may have a bearing on the international trade of the United States and should be pursued in parallel to trade negotiations.

It is the expectation of the Committee that in affirming that a trade agreement makes progress toward achieving the applicable purposes, policies, priorities and objectives of this bill, the President will address the purposes, policies, priorities, and objectives in each of the subsections of section 2.

Section 2(a). Overall trade negotiating objectives

Section 2(a) identifies twelve overall trade negotiating objectives, as follows:

- Obtaining more open, equitable, and reciprocal market access;
- Obtaining the reduction or elimination of barriers related to trade and investment and other trade-distorting policies and practices;
- Further strengthening the system of international trade and investment disciplines and procedures, including dispute settlement;

- Fostering economic growth, raising living standards, enhancing the competitiveness of the United States, promoting full employment in the United States, and enhancing 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;
- Promoting respect for worker rights and the rights of children, consistent with core labor standards as defined in section 11(7) of the bill;
- Seeking provisions in trade agreement under which parties to those agreements ensure that they do not weaken or reduce protections afforded in domestic environmental and labor laws in order to gain trade advantages;
- Ensuring that trade agreements afford small businesses equal access to international markets, equitable trade benefits, and expanded export opportunities, and provide for the elimination of barriers that affect small businesses disproportionately;
- Promoting 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;
- Ensuring that trade agreements reflect and facilitate the interrelated, multi-sectoral nature of trade and investment;
- Recognizing the significance of the Internet as a trading platform in international commerce; and
- Taking into account other legitimate U.S. domestic objectives, including the protection of legitimate health or safety, essential security, and consumer interests and the law and regulations related thereto.

These overall objectives have been updated to reflect the central importance of trade agreements in expanding U.S. access to foreign markets, strengthening the international trading system, and fostering growth and full employment in the United States, while making clear that trade agreements can and should be consistent with other priorities, such as protecting the environment, the rights of workers, and legitimate domestic regulatory objectives such as protecting health or safety and consumer interests. In addition, a new overall negotiating objective recognizing the significance of the Internet as a trading platform in international commerce makes clear that as negotiators seek to expand trading opportunities for U.S. producers of goods and services, they should be mindful of new opportunities and barriers arising from technological advances. This bill 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.

Section 2(b). Principal trade negotiating objectives

Section 2(b) sets forth 20 objectives that are sector- or issue-specific, as follows:

1. Trade in goods

The principal negotiating objectives of the United States regarding trade in goods are:

- 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 U.S. exports and distort U.S. trade, and
- To obtain reciprocal tariff and nontariff barrier elimination agreements, including with respect to products covered in section 111(b) of the Uruguay Round Agreements Act.

The negotiating objectives in section 2(b)(1) apply to goods exports of the United States, and direct U.S. negotiators to seek to reduce or eliminate tariff and nontariff barriers to U.S. products. Goods exports of the United States continue to be subject to often high duties at the borders of U.S. trading partners. The language directs the reduction or elimination of tariff barriers. The negotiating objectives also apply to nontariff barriers that restrict the export of U.S. goods. Nontariff barriers to U.S. exports are applied both at the border, such as quantitative restrictions and import licensing requirements, and behind the border, such as discriminatory trade-related regulations, standards, or conformity assessment procedures. The objective is directed at policies and practices, as well as formal statutes and regulations. The Committee recognizes that some of the most onerous foreign trade barriers faced by U.S. exporters consist of informal policies and practices that may not be as easy to identify as a written law that violates an international trade obligation.

Section 2(b)(1)(B) directs the President to continue to seek the elimination of duties on a reciprocal basis, including for products covered in section 111(b) of the Uruguay Round Agreements Act. It is the Committee's intention that the President pay particular attention to the elimination of tariffs on these products, which could result in substantial benefits to U.S. industry and workers. For many of these products, U.S. producers remain at a significant competitive disadvantage. In other sectors, tariff inequities are aggravated by tariff escalation, which occurs when a country establishes low or zero tariffs for raw materials but maintains relatively high tariffs for processed products. The Committee intends that the Administration 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 intends this negotiating objective, in combination with other negotiating objectives, to support improvements in trade facilitation. Trade facilitation is critical to creating and sustaining a healthy U.S. economy. Thus, this negotiating objective is intended to be read consistently with the overall negotiating objective to ensure that trade agreements reflect the increasingly interrelated and multi-sectoral nature of trade and investment activity, and the negotiating objectives regarding capacity building, specifically relating to customs and trade facilitation.

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.

The principal negotiating objective of the United States regarding trade in services is 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 and market access or unreasonably restrict the establishment or operations of service suppliers.

Section 2(b)(2)(B) recognizes for the first time that the expansion of services opportunities generates benefits for all sectors of the economy and facilitates trade. Section 2(b)(2)(B) also encourages the pursuit of this objective 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. It is the view of the Committee that the United States should not agree to the inclusion of any party in the Trade in Services Agreement unless that party has demonstrated a commitment to meeting the high standards of the agreement in a timely manner. It is also the view of the Committee that the Trade in Services Agreement not be delayed, and that the negotiations move forward only with parties willing and able to meet the negotiations' ambitious objectives.

The Committee notes that there are four modes of trade in services: (1) delivery of a service from the territory of one country into the territory of other country; (2) supply of a service of one country to the service consumer of any other country; (3) services provided by a service supplier of one country in the territory of any other country, and (4) services provided by a service

supplier of one country through the presence of natural persons in the territory of any other country.

Congress has long held that trade agreements are not an appropriate vehicle for enacting immigration-related law or modifying immigration policy. Article I, section 8, clause 4 of the Constitution gives Congress the power to “establish a uniform Rule of Naturalization,” and the Supreme Court has long found that this provision of the Constitution grants Congress plenary power over immigration policy. For many years, Congress has made it abundantly clear that international trade agreements should not change, nor require any change, to U.S. immigration law and practice. For example, in July 2003 the Senate unanimously passed a resolution (S. Res. 211) stating that:

- (1) trade agreements are not the appropriate vehicle for enacting immigration-related laws or modifying current immigration policy; and
- (2) future trade agreements to which the United States is a party and the legislation implementing the agreements should not contain immigration-related provisions.

The Committee continues to believe that it is not appropriate to negotiate in a trade agreement any provision that would (1) require changes to U.S. immigration law, regulations, policy, or practice; (2) accord immigration-related benefits to parties to trade agreements; (3) commit the United States to keep unchanged, with respect to nationals of parties to trade agreements, one or more existing provisions of U.S. immigration law, policy, or practice; or (4) expand to additional countries immigration-related commitments already made by the United States in earlier trade agreements.

3. Trade in agriculture

The principal negotiating objective of the United States with respect to agriculture is to obtain competitive market access opportunities for U.S. agricultural exports substantially equivalent to opportunities afforded foreign exports in U.S. markets and to achieve fairer and more open conditions of trade by:

- Securing more open and equitable market access through robust rules on sanitary and phytosanitary (SPS) measures that encourage the adoption of international standards and require a science-based justification for SPS measures, improving regulatory coherence, requiring that SPS measures are transparently developed and implemented, and based on risk assessments that take into account relevant international guidelines and scientific data, and are not more restrictive on trade than necessary, while recognizing that countries may protect human, animal, or plant life or health in a manner consistent with their international obligations;
- Reducing or eliminating tariffs that decrease market opportunities for U.S. exports, while providing adjustment periods for U.S. import-sensitive products;
- Reducing tariffs to levels that are the same as or lower than those in the United States;

- Reducing or eliminating subsidies that decrease market opportunities for U.S. exports;
- Preserving non-trade distorting programs that support family farms and rural communities;
- Eliminating government policies that create price depressing surpluses;
- Eliminating state trading enterprises;
- Establishing and strengthening rules, subject to dispute settlement, that decrease U.S. market access opportunities or distort agricultural markets, including: trade distorting activities of state trading enterprises; unjustified trade restrictions or commercial requirements, such as labeling, that affect new technologies, including biotechnology; unjustified sanitary or phytosanitary restrictions, including restrictions not based on scientific principles; other unjustified technical barriers to trade; and restrictive rules in the administration of tariff rate quotas;
- Eliminating practices that adversely affect trade in perishable or cyclical products;
- 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;
- Taking into account whether a party to the negotiations has failed to adhere to existing obligations;
- Taking into account whether a product is subject to market distortions by reason of a failure of a major producing country to adhere to existing obligations;
- Ensuring that countries that accede to the World Trade Organization have made meaningful market liberalization commitments in agriculture;
- Taking into account the impact that agreements covering agriculture to which the United States is a party is having on U.S. agriculture;
- Maintaining bona fide food assistance programs, market development programs, and export credit programs;
- Securing the broadest market access possible in multilateral, regional, and bilateral negotiations, while recognizing the effect that negotiations in multiple fora may have on United States import sensitive commodities;
- Seeking to develop an international consensus on the treatment of seasonal or perishable agricultural products in investigations relating to dumping and safeguards;
- Seeking to establish the common base year for calculating the Aggregated Measurement of Support, as defined in the Agreement on Agriculture;
- Ensuring transparency in the administration of tariff rate quotas; and
- 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.

The Committee recognizes that since the last enactment of Trade Promotion Authority in 2002, the nature of barriers to U.S. agricultural trade has continued to evolve. Advanced developing

countries, such as Brazil, China, and India, have significantly increased their use of agricultural subsidies since 2002. Domestic support in many advanced developing countries is now higher than domestic support levels in many developed countries. In many cases, domestic support provided by advanced developing countries appears to exceed domestic support limits established under the World Trade Organization (WTO) Agreement on Agriculture. It is particularly important for the United States to press advanced developing countries to make domestic support programs transparent, including through complete and timely WTO notifications; to enforce agreed upon limits on domestic support, including the establishment of the common base year for calculating Aggregated Measurement of Support under the WTO 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; and to develop meaningful disciplines on the use of market-distorting domestic support by advanced developing countries.

Barriers imposed through the improper use of Sanitary and Phytosanitary (SPS) barriers remains one of the most significant disruptions to U.S. agricultural exports. While the Committee recognizes that SPS measures may be used to address legitimate health and safety concerns, these measures must not be used as disguised barriers to trade. It is the expectation of the Committee that U.S. trade agreements to be considered under trade authorities procedures will achieve stronger rules on SPS measures than those contained in the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, and that the SPS chapters of U.S. trade agreements will be subject to the same enforcement procedures and remedies as other enforceable chapters of the trade agreement.

United States agricultural producers also face increasing use of regulatory restrictions, and political interference with science-based regulatory decisions, that impede the trade of innovative agricultural products, including biotechnology. The United States is the world's leader in research and development of innovative, safe technologies, but trade in these products is routinely being disrupted through the delay or denial of approvals, particularly in Europe and China. The Committee expects that U.S. negotiators will ensure that foreign regulatory approval processes are not used to prevent, deny, delay, or reduce foreign market access to U.S. agriculture exports with biotechnology traits, and the bill contains several negotiating objectives aimed at preventing foreign regulatory approval processes from being used as a trade barrier to new agriculture technologies. In particular, the Committee references the objectives in section 2(b)(1)(A); section 2(b)(3)(A)(i), 2(b)(3)(A)(ii), 2(b)(3)(A)(iv), 2(b)(3)(I)(ii), and 2(b)(3)(I)(iv); section 2(b)(5)(A)(iii), and 2(b)(5)(B); and section 2 (b)(7)(G).

The Committee also recognizes the significance of the barriers imposed on U.S. agricultural producers by the misuse of systems of protection for geographical indications (GIs). Production of U.S. specialty agricultural products using common food names continues to grow at a

significant rate. The continued growth in exports of these high value-added agricultural products represents a major opportunity for U.S producers. While reasonable rules for identifying and protecting GIs are appropriate and have benefits, certain trading partners misuse their systems of GI protection to discriminate against U.S. products by, for example, employing a registration process lacking in transparency or procedural fairness that results in the improper protection of generic terms. The bill directs U.S. negotiators to seek to eliminate or prevent such practices. The Committee also intends for this section to reflect the importance the Congress has placed on this issue, including in ensuring continued use of semi-generic terms as codified in 26 U.S.C. 5388(c). Lastly, the Committee also seeks to prevent further attempts to expand systems for protection of GIs to include terms commonly used as descriptors by claiming such terms are to be protected as traditional specialty or traditional quality terms.

4. Foreign investment

The principal negotiating objectives of the United States regarding foreign investment are to reduce barriers to foreign investment, while ensuring that foreign investors in the United States are not accorded greater substantive rights than U.S. investors in the United States, and to secure for U.S. investors rights comparable to those available in the United States, including by:

- Reducing or eliminating exceptions to national treatment;
- Freeing the transfer of funds relating to investments;
- Reducing or eliminating performance requirements, forced technology transfers, and other unreasonable barriers to investment;
- Establishing standards for expropriation and compensation for expropriation, consistent with U.S. legal principles and practice;
- Establishing standards for fair and equitable treatment, consistent with U.S. legal principles and practice, including the principle of due process;
- Providing meaningful procedures for resolving disputes;
- Improving investor-state dispute settlement mechanisms through procedures to eliminate and deter frivolous claims, ensure the efficient selection of arbitrators and the expeditious disposition of claims, enhance public input, and provide coherence to the interpretation of investment provisions through an appellate body or similar mechanism; and
- Ensuring the fullest measure of transparency in investor-state dispute settlement mechanisms, to the extent consistent with the need to protect information that is classified or business confidential.

The Committee recognizes that U.S. law provides a high level of protection for U.S. and foreign investors in the United States, but that U.S. investors in foreign jurisdictions often do not receive the same level of basic protections available in the United States. The lack of adequate legal

protections for U.S. investors is a significant barrier to U.S. exports. Foreign investment by U.S. companies spurs U.S. exports, as over 48 percent of U.S. large company exports are exports to foreign affiliates. Moreover, U.S. parent firms export more goods and services to their foreign affiliates than foreign affiliates export to the United States, thus improving the U.S. balance of trade. In order for these beneficial effects of foreign investment to continue, it is important that U.S. investors abroad receive legal protections similar to what U.S. and foreign investors receive in the United States.

The negotiating objectives therefore direct U.S. negotiators to secure for U.S. investors rights comparable to those available in the United States. This includes protections against discriminatory treatment, similar to the guarantees set out in the Equal Protection Clause of the U.S. Constitution; fair and equitable treatment, similar to the protection against arbitrary and capricious treatment in the Administrative Procedures Act; and against uncompensated expropriations, similar to U.S. Supreme Court interpretations of the Takings Clause of the U.S. Constitution.

Recent investment treaties and trade agreements of the United States include a number of important clarifications to ensure that the rights afforded to investors under those agreements do not go beyond those available under U.S. law. These provisions include an annex clarifying the standard for indirect expropriation to ensure consistency with U.S. law, and a provision clarifying the minimum standard of treatment to ensure that arbitral decisions reflect U.S. legal principles and practice. The Committee regards all of these provisions as important for ensuring investor-state obligations remain comparable to U.S. law.

Additionally, investment treaties and trade agreements of the United States now provide more detailed guidance for both parties and tribunals with regard to procedural and other matters not included in earlier U.S. investment treaties, including the expedited review of claims, rules on frivolous claims, participation of non-disputing third parties in the arbitration, a statute of limitations, and consolidation of related claims. The 2012 Model BIT and recent FTAs also formalized the transparency and openness of arbitral proceedings. The Committee believes these provisions help ensure that investor-state dispute settlement meets high standards of due process and transparency.

The United States has concluded bilateral investment agreements with more than fifty countries. For the past thirty years, those agreements have typically included provisions establishing a mechanism through which neutral arbitrators resolve disputes between investors and governments relating to government measures that violate the provisions of U.S. investment agreements. It is the Committee's view that it is a priority for negotiators to seek agreements that protect the rights of U.S. investors equally abroad, without product discrimination, while

ensuring all U.S. investors the existence of an effective investor-state dispute settlement mechanism.

Where such agreements include a mechanism for investors to seek redress through investor state dispute settlement, it is also the Committee's view that this mechanism should not impinge on the ability of governments to regulate in the public interest. The Committee believes that current U.S. investment agreements do not restrict the ability of government to regulate in the public interest. The Committee also believes the 2012 U.S. Model Bilateral Investment Treaty serves as a strong basis for the negotiation of provisions to deter frivolous challenges to legitimate public interest measures, to ensure independent and impartial arbitration, and to ensure high levels of transparency.

In recognition of the particular importance the Committee places on ensuring that U.S. sovereignty is not impinged upon by U.S. trade agreement provisions, including provisions regarding investor-state dispute settlement mechanisms, the bill for the first time includes a section setting out Congressional direction on sovereignty (see section 8, below). This section makes clear that no government can be compelled to change its law due to an adverse finding by an arbitration tribunal. The Committee notes that the United States has never lost a case.

5. Intellectual property

The principal negotiating objectives regarding intellectual property are to further promote adequate and effective protection for intellectual property rights through:

- ensuring full implementation of the WTO Agreement on Trade-Related Aspects of Intellectual Property (TRIPS), particularly with respect to the enforcement obligations;
- ensuring that provisions of any trade agreement governing intellectual property rights reflect a standard of protection similar to that found in U.S. law;
- providing strong protection for new technologies and methods of transmitting and distributing intellectual property, including in a manner that facilitates legitimate digital trade;
- preventing or eliminating discrimination regarding intellectual property rights;
- ensuring standards of protection and enforcement keep pace with technological developments, and in particular 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 works;
- providing strong enforcement of intellectual property rights;
- and preventing or eliminating government involvement in the violation of intellectual property rights, including through cybertheft and piracy.

The principal 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.

Protection of intellectual property rights (IPR) is critical to the U.S. economy, jobs, national security, and the health and safety of the American people. Much of the U.S. economy relies on some form of IPR because virtually every industry either produces or uses it. IPR infringement causes significant financial losses for U.S. right holders and businesses around the world. It undermines U.S. innovation and creativity, hurting U.S. economic competitiveness to the detriment of American businesses and workers. IPR infringement also endangers the public and harms national security, as counterfeit products may pose significant risks to consumer health and safety.

For these reasons, the principal negotiating objective directs negotiators to ensure that all countries provide adequate and effective protection and enforcement of IPR. Intellectual property enforcement, however, remains inadequate in many countries around the world. The rates of counterfeiting and piracy in much of the world remain alarmingly high. The Committee, therefore, directs U.S. negotiators to ensure U.S. trading partners provide strong enforcement of intellectual property rights.

In addition to more traditional forms of IPR infringement, such as sales of counterfeit and pirated goods by street vendors or in other physical markets, the increased availability of broadband Internet connections around the world has fueled the market for IPR infringing products online. To help address the challenges to IPR protection and enforcement related to the Internet, U.S. negotiators should ensure standards of protection and enforcement keep pace with technological developments, and in particular ensure that right holders have the legal and technological means to control the use of their works through the Internet and to prevent unauthorized use of their works.

Inadequate protection for trade secrets and trade secret theft are increasing problems around the world. A trade secret is often among a company's core business assets, and protection of its trade secret is essential for that company's ability to compete. Trade secret theft, including industrial and economic espionage, imposes significant costs on the U.S. economy, weakens U.S. competitiveness, puts U.S. jobs at risk, and threatens national security. For these reasons, the Committee is concerned about inadequate protection for trade secrets and the rise in trade secret theft by U.S. trading partners.

The Committee updated the intellectual property rights negotiating objectives to address the concern of trade secret theft by governments, directing U.S. negotiators to prevent or eliminate government theft of intellectual property rights, such as trade secret theft, including through cyber theft.

The updated negotiating objective to prevent or eliminate government theft of intellectual property rights is also intended to direct U.S. negotiators to address another problem faced by U.S. right holders, which is foreign governments' continued use of pirated software. U.S. negotiators should ensure foreign governments do not use unauthorized software.

The Committee has updated section (5)(A)(ii) 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.

Adequate and effective intellectual property protection is critical to provide the incentives necessary for is critical to provide the incentives necessary for the development and marketing of new medicines, including biologics. Without these innovative medicines, the market for generic medicines would not exist. U.S. negotiators must, therefore, ensure that trade agreements foster innovation so that patients around the world can benefit from access to lifesaving medicines. Strong regulatory data protection is a key factor to incentivize research and investment in biologics. Thus achieving terms of regulatory data protection similar to those found in U.S. law should continue to be a high priority for U.S. trade negotiators. The existence of a robust generic market increases the affordability of medicines. U.S. negotiators should promote access to innovative and generic medicines by addressing the market access barriers faced by U.S. producers of medicines, including those market access barriers that are discriminatory and non-transparent.

While the TRIPS Agreement was an important milestone in the effort to raise standards of IPR protection and enforcement around the world, TRIPS provides only minimum standards. Nearly 20 years after the TRIPS Agreement came into force, all WTO member countries should at least meet the minimum standards for protection and enforcement of IPR provided by the TRIPS Agreement. U.S. negotiators must ensure that U.S. trading partners have fully implemented the TRIPS Agreement, particularly the enforcement obligations.

This Committee further intends for U.S. negotiators to seek bilateral, plurilateral, and multilateral agreements that include intellectual property provisions that go beyond the TRIPS Agreement and reflect a high standard of intellectual property protection similar to that found in U.S. law.

Finally, the Committee notes that U.S. industries that rely on intellectual property protection continue to suffer from unnecessary and discriminatory market access barriers around the globe. U.S. negotiators must remain vigilant in their efforts to eliminate these barriers, since they stunt the growth of otherwise highly productive industries.

6. Digital trade in goods and services

The principal negotiating objectives for digital trade in goods and services and cross-border data flows are:

- to ensure that current trade agreement obligations, rules, disciplines, and 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;
- to ensure that governments do not impede digital trade, restrict cross-border data flows, or require local storage or processing of data, and to ensure that domestic regulations required by legitimate policy objectives are the least restrictive on trade, non-discriminatory and transparent, and promote an open market environment; and
- to extend the World Trade Organization moratorium on duties on electronic transmissions.

Digital trade in goods and services and cross-border data flows continues to grow in importance to the U.S. economy. U.S. companies move data over the Internet to provide digital goods and services to consumers around the world, as well as to enhance competitiveness by increasing productivity, streamlining operations, and facilitating creativity and problem solving. It is, therefore, critical that U.S. negotiators ensure that all trade agreement obligations, rules, disciplines, and commitments apply to digital trade and cross border data flows, that digitally traded goods and services receive no less favorable treatment than comparable goods and services, and that they are classified to ensure the most liberal trade treatment possible.

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. Unfortunately, an increasing number of governments are considering or imposing restrictions on cross-border data flows or requirements to store and process data locally. This section directs negotiators to seek provisions in trade agreements to ensure that governments refrain from such restrictions and requirements, which are detrimental to all sectors of the economy, including the digital economy that is facilitated by the Internet. The Committee

expects U.S. negotiators to pursue provisions that afford equal protection to all sectors, including financial services.

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 achieve 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, as appropriate;
- to achieve the elimination of government measures such as 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; and
- 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.

Foreign government regulatory practices may effectively constitute trade-distorting barriers that diminish or nullify negotiated trade agreement benefits. For example, market access for agricultural products accorded through tariff concessions may be substantially offset by non-scientific based health and safety regulations that cause delay in getting the products to consumers. The problem of laws and regulations that act as disguised trade barriers is compounded when a government's processes for making its laws and regulations are not open to public view and are not receptive to public input.

While the world's economies continue to grow more interconnected, trade flows are often disrupted by a myriad of regulations in multiple countries that may seek the same objectives and standard of protection, but are opaque, duplicative, or conflicting. Such confusing, duplicative, or incompatible regulations act as a trade barrier, and impose significant and unnecessary costs on U.S. businesses and consumers. Accordingly, the Committee updated these negotiating

objectives to direct U.S. negotiators to use a variety of means to improve regulatory practices and promote increased regulatory coherence, to improve international standards development processes, and to promote regulatory compatibility.

There is an increasing consensus across the spectrum of U.S. industry that 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 processes; (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 maintain 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 developing of regulations abroad. Thus, the Committee strongly urges USTR to pursue the negotiation of cross-cutting transparency disciplines, particularly in the areas of services, digital trade, and government procurement.

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.

The objectives on regulatory practices also direct U.S. negotiators to seek the elimination of price controls and reference pricing which deny full market access for United States products. Under these barriers, the government of an importing country restricts market access by arbitrarily limiting the prices at which particular products can be sold. Examples of measures

covered under Section 7(F) with regard to regulatory practices include the use by foreign governments of reference pricing classification systems for Customs valuation and other regulatory measures.

The objectives were also updated to direct negotiators to ensure that government regulatory reimbursement regimes are transparent, provide procedural fairness, are nondiscriminatory, and provide full market access for United States products. The sale of certain U.S. products, such as pharmaceuticals and medical devices, in foreign markets very often depends on regulatory reimbursement regimes, which decide whether these products can be listed for reimbursement and the amount of the reimbursement. It is critical that regulatory reimbursement regimes make these listing and pricing and decisions in a fair and nondiscriminatory manner. It is also critical that these reimbursement regimes provide full market access for U.S. products, which includes setting the reimbursement amount based on competitive, market-derived pricing or an equivalent process, such as one that appropriately recognizes the value of a patented product and allows the product manufacturer to apply for an increased amount of reimbursement based on factors such as safety and efficacy.

A growing problem around the world is foreign governments' forcing the transfer of trade secrets and other technology from U.S. businesses. As a condition of doing business, some foreign governments require U.S. companies to provide them with unnecessary information, including trade secrets and other proprietary information. The foreign government will then steal the proprietary information to use it to compete against U.S. companies. Trade secrets are often among a company's core assets and once they are stolen the impact can be devastating for the company and for future innovation. This type of trade secret theft threatens to diminish U.S. competitiveness around the globe, puts American jobs at risk, and poses threats to U.S. national security as well. This negotiating objective has been updated to reflect the importance of this threat by directing U.S. negotiators to ensure foreign governments collect only undisclosed proprietary information that is necessary to satisfy a legitimate and justifiable regulatory interest, and protect any information collected against disclosure.

The principal negotiating objectives of the United States regarding regulation or other practices to reduce market access for United States goods, services, and investments, include ensuring 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. 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, on in writing.

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:

- Eliminate or prevent trade distortions and unfair competition; and
- Ensure that the commercial activity of by state-owned and state-controlled enterprises is based solely on commercial considerations.

The negotiating objective specifically directs U.S. negotiators to seek disciplines in agreements that eliminate or prevent discrimination and market-distorting subsidies and that promote transparency.

The Bipartisan Congressional Trade Priorities and Accountability Act of 2015 is the first time that U.S. negotiators have been directed to eliminate trade distortions and unfair competition by state-owned and state-controlled enterprises (SOEs) and ensure that they act based solely on commercial considerations. Since 2002, SOEs have increasingly entered commercial markets. It is the view of the Committee that U.S. trade agreements should ensure private firms are not disadvantaged by the participation of SOEs in commercial markets and that governments do not unfairly favor SOEs, including through measures such as subsidies and preferential financing, and selective regulation or enforcement of laws. These disciplines should also address measures including licensing requirements and discriminatory tax treatment.

9. Localization barriers to trade

The principal negotiating objective of the United States with respect to localization barriers to trade is to eliminate and prevent 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. This new negotiating objective 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.

10. Labor and the environment

The principal negotiating objectives with respect to labor and the environment are:

- To ensure 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 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.
- To ensure a party does not waive or otherwise derogate from, or offer to waive or otherwise 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 the waiver or derogation would be inconsistent with one or more such standards, or 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 or other provisions of the trade agreement specifically agreed upon.
- To ensure a party 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.
- To recognize that, 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.
- To recognize that, 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.
- To strengthen the capacity of United States trading partners to promote respect for core labor standards.
- To strengthen the capacity of United States trading partners to protect the environment through the promotion of sustainable development.
- To reduce or eliminate government practices or policies that unduly threaten sustainable development.
- To seek market access, through the elimination of tariffs and nontariff barriers, for United

States environmental technologies, goods, and services.

- 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.
- To ensure that enforceable labor and environment obligations are subject to the same dispute settlement and remedies as other enforceable obligations under the agreement.
- 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.

For purposes of the bill, 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).

The bill also specifies the specific agreements that are considered common multilateral environmental agreement for purposes of the bill. Any common multilateral environmental agreement must include both the United States and one or more other parties to the negotiations as full parties, including any current or future mutually agreed upon protocols, amendments, annexes, or adjustments to such an agreement. The common multilateral environmental agreements specified by the bill are: the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington March 3, 1973 (27 UST 1087; TIAS 8249); the Montreal Protocol on Substances that Deplete the Ozone Layer, done at Montreal September 16, 1987; the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, done at London February 17, 1978; the Convention on Wetlands of International Importance Especially as Waterfowl Habitat, done at Ramsar February 2, 1971 (TIAS 11084); the Convention on the Conservation of Antarctic Marine Living Resources, done at Canberra May 20, 1980 (33 UST 3476); the International Convention for the Regulation of Whaling, done at Washington December 2, 1946 (62 Stat. 1716); the Convention for the Establishment of an Inter-American Tropical Tuna Commission, done at Washington May 31, 1949 (1 UST 230).

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 the Committee expects that agreements considered under these trade authorities procedures will achieve similar results.

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.

The Bipartisan Congressional Trade Priorities and Accountability Act of 2015 is the first time TPA includes a principal negotiating objective addressing currency manipulation. The addition of this objective reflects the concern of the Committee that foreign countries gain an unfair advantage by undervaluing their currency. The negotiating objective establishes a strong standard for negotiators to achieve in trade agreements, and provides tools – including, where appropriate, enforceable provisions – for addressing currency manipulation.

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:

- 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;
- 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;
- 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;
- 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;
- 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
- To encourage greater cooperation between the World Trade Organization and other international organizations.

The World Trade Organization has proven to be a successful mechanism for nations to monitor

and enforce international trade commitments. The Committee expects our trade negotiators to continue to use all tools available under the WTO to expand market access for U.S. products, eliminate unjustified nontariff barriers, and hold member nations accountable for meeting their international trade commitments, including through formal consultations and dispute settlement as appropriate.

With respect to the directive 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 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 principal negotiating objective with respect to trade institution transparency is to seek improved transparency in the WTO, in institutions established through other trade agreements, and in other international trade for a through:

- Timely public access to information regarding trade issues and activities of trade institutions;
- Openness by ensuring public access to meetings, proceedings, and submissions;
- Public access to all notifications and supporting documents submitted by WTO members.

The Committee believes that the success of the WTO and other trade institutions in setting and administering the rules of international trade requires that these institutions operate in transparent ways. This means that their decision making processes must be clear and, where practicable, open to public observation and to input by interested parties. These principles should govern all decisions international trade institutions make, whether in day-to-day administration, dispute settlement, or otherwise.

The objectives regarding transparency reflect principles that govern decision making within the institutions of the United States and other democratic governments. Transparency reinforces support for democratic institutions, even though individuals may disagree with particular decisions by those institutions.

Similarly, greater transparency will allow the WTO and other trade institutions to build confidence that they are operating fairly, even though individuals may disagree with particular decisions. Just as important, greater openness within these international institutions should encourage greater openness within countries that are members of these institutions.

U.S. trade negotiators should seek improved transparency, which requires that trade institutions provide timely public access to information regarding trade issues and institution activities, provide openness by ensuring public access to meetings, proceedings, and submissions, and provide public access to written submissions.

14. Anti-corruption

A strengthened principal negotiating objective of the United States with respect to corruption affecting trade seeks to obtain high standards and effective domestic enforcement that prohibits attempts to influence acts, decisions, or omissions of foreign governments or officials or to secure an improper advantage; to ensure that such standards level the playing field for United States persons in international trade and investment; and 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 (OECD Convention).

The Committee is increasingly aware of the negative effects that corruption and weak rule of law has on the ability of U.S. companies to compete in foreign markets. 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.

It is the Committee's view that "high standards" are those that are equivalent to those established under section 30A of the Securities and Exchange 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 FCPA, compete on a level playing field.

The Committee believes it is particularly important for U.S. trading partners to participate in and take commitments under international anti-corruption and anti-bribery initiatives. The negotiating objectives on anti-corruption therefore directs U.S. trade negotiators to carefully consider how to more effectively utilize instruments such as the OECD Convention to advance high anti-corruption standards among our trading partners.

15. Dispute settlement and enforcement

The principal negotiating objectives regarding dispute settlement and enforcement are:

- To 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;
- To seek to strengthen the capacity of the WTO Trade Policy Review Mechanism to review compliance with commitments;
- To seek improved adherence by WTO dispute settlement panels and the Appellate Body to the mandate of those panels and the Appellate Body to apply the WTO Agreement as written, and to apply the standard of review in applicable WTO Agreements, including greater deference to the fact finding and technical expertise of national investigating authorities;
- To seek provisions encouraging the early identification and settlement of disputes through consultations;
- To seek provisions encouraging trade-expanding compensation;
- To seek provisions to impose a penalty that encourages compliance, is appropriate to the parties, nature, subject matter, and scope of the violation, and has the aim of not adversely affecting parties or interests not party to the dispute while maintaining the effectiveness of the enforcement mechanism; and
- To seek provisions that treat U.S. principal negotiating objectives equally with respect to ability to resort to dispute settlement and availability of equivalent procedures and remedies.

Fair and efficient dispute settlement mechanisms are essential to well-functioning trade agreements. An effective dispute settlement mechanism must be capable of interpreting the rights and obligations of disputing parties and rendering determinations that the parties treat as binding, including with respect to bringing national measures into compliance with trade agreements when a measure of a party is found to be inconsistent with its commitments under an international trade agreement.

In order to be effective, a dispute settlement mechanism must maintain the trust of the parties that it is faithfully adhering to – and not adding to or diminishing – the rights and obligations of the parties to the agreement. A dispute settlement mechanism must therefore render equitable and

reasoned decisions, based on the facts of cases presented and a faithful interpretation of agreements.

The Committee has previously expressed concern with the standard of review that dispute settlement panels and the WTO Appellate Body have applied in cases involving measures taken by administrative agencies of the United States, in particular, the U.S. International Trade Commission and the Department of Commerce. Those concerns remain. The Committee is also concerned that WTO Appellate Body has made findings that appear to go beyond directly resolving the dispute before it, and at times making findings that appear to go beyond the text of the WTO Agreement by giving meaning to text that, interpreted properly, reflects the decision by WTO Members to not create an obligation with respect to certain measures.

The Committee considers that the long-term effectiveness of the WTO dispute settlement mechanism depends on WTO dispute settlement panels and the Appellate Body faithfully adhering to Articles 3.2 and 19.2 of the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes, which state that the recommendations and rulings of the WTO Dispute Settlement Body “cannot add to or diminish the rights and obligations provided in the [WTO] agreements.” The negotiating objective directs U.S. negotiators to ensure that the WTO dispute settlement mechanism meets this standard, and to negotiators should address any systemic failure to do so.

16. Trade remedy laws

The principal negotiating objective with respect to trade remedies are:

- 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 provisions to ensure that U.S. workers, agricultural producers, and firms can compete fully on fair terms and enjoy the benefits of reciprocal trade concessions; and
- to address and remedy market distortions that lead to dumping and subsidization.

The trade remedy laws of the United States provide firms the means to ensure that they and their workers are not harmed by unfair trade practices of U.S. trading partners. The Committee considers that the laws are essential for allowing U.S. firms to participate fairly in international trade, and that U.S. trade remedy laws help to maintain support for trade liberalization. U.S. trade negotiators should, therefore, ensure that trade agreements do not weaken the enforcement or the effectiveness of U.S. trade remedy laws.

17. Border taxes

The principal negotiating objective regarding border taxes 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. The principle negotiating objective regarding border taxes directs U.S. negotiators to seek a revision of WTO rules that will eliminate the current disadvantage to countries, such as the United States, that rely primarily on direct taxes (such as income taxes), rather than indirect taxes (such as sales and value-added taxes), and that tax income on a worldwide rather than a territorial basis. WTO subsidy rules as interpreted by dispute settlement panels and the Appellate Body give rise to a disparity that favors territorial tax jurisdictions over worldwide tax jurisdictions. The view of the Committee is that this disparity must be corrected to preserve the sovereign right of every country to choose its own rules of taxation.

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.

The negotiating objectives seek to promote the export of U.S. made products. In 2013, approximately one-third of U.S. textile production was exported, with a value of \$17.8 billion. More than half of this output was shipped to Western Hemisphere nations that are members of the North American Free Trade Agreement (NAFTA), the Dominican Republic-Central America Free Trade Agreement (CAFTA-DR), and the Caribbean Basin Initiative (CBI). Exports to the NAFTA and CAFTA-DR countries contributed to a U.S. trade surplus of \$2.4 billion in yarns and fabrics in 2013. The strong markets for U.S. yarn and fabric in free trade agreement countries underscores the importance of the negotiating objective.

The textiles and apparel sector is highly integrated into international supply chains, many of which originate in the United States. The objective supports expanded participation in global value chains and seeks to ensure that trade agreements reflect the increasingly interrelated and multi-sectoral nature of trade and investment activity. Many of the world's largest apparel retailing and marketing firms are headquartered in the United States, where countless functions related to apparel are done domestically, such as design, branding, and marketing of finished products. By some estimates, nearly 70 percent of the value of a garment imported into the United States stays in the U.S. economy, supporting high-skill and high-pay jobs. As

negotiations on textiles and apparel are undertaken, supply chains and support for new job growth in the United States should remain a significant goal.

19. Commercial partnerships

The principal negotiating objective of the United States with respect to an agreement under the Transatlantic Trade and Investment Partnership countries regarding commercial partnerships is:

- To discourage actions by potential trading partners that directly or indirectly prejudice or otherwise discourage commercial activity solely between the United States and Israel;
- To discourage politically motivated actions to boycott, divest from, or sanction Israel and to seek the elimination of politically motivated nontariff barriers on Israeli goods, services, or other commerce imposed on Israel.
- To seek the elimination of any boycott fostered or imposed by a foreign country against Israel and compliance with the Arab League Boycott of Israel by prospective trading partners.

Congress has previously expressed its sense that the Arab League Boycott of Israel is an impediment to peace in the region and to United States investment and trade in the Middle East and North Africa, and that the boycott should be immediately terminated. (See the Consolidated Appropriations Act of 2014, P.L. 113-76). The Committee is concerned about support by potential trading partners of politically-motivated boycotts of, divestments from, sanctions of, or other discriminatory economic actions against Israel. The Committee is particularly concerned by retaliatory or discriminatory actions taken against U.S. businesses for the sole reason that the U.S. business has commercial ties with Israel. Such actions impair the ability of U.S. firms to export goods and services, and directly invest in foreign markets. The Committee therefore considers that negotiators should seek to ensure that Transatlantic Trade and Investment Partnership countries do not prejudice the ability of U.S. firms to engage in commercial activity in Israel or with Israeli persons, and that Transatlantic Trade and Investment Partnership countries do not support or engage in politically-motivated actions to boycott, divest from, or sanction Israel, or take other politically-motivated nontariff barriers to Israeli commerce.

20. Good governance, transparency, the effective operation of legal regimes, and the rule of law of trading partners

The Bipartisan Congressional Trade Priorities and Accountability Act of 2015, for the first time, establishes principal negotiating 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 U.S. trading partners through capacity building and other appropriate means. These objectives are important parts of

the broader effort to create more open democratic societies and to promote respect for internationally recognized human rights. Through these negotiating objectives, the Committee emphasizes that the effective implementation of and adherence to trade agreement obligations contribute to broader policy goals of the United States, such as the promotion of democracy and respect for internationally recognized human rights.

The Committee understands that the Transpacific Partnership negotiations will seek to achieve this negotiating objective through rules on good governance, including the promotion of greater transparency, participation, and accountability in the development of regulations and other government decisions, including by promptly publishing laws, regulations, administrative rulings of general application, and other procedures that affect trade and investment, and providing opportunities for stakeholder comment on measures before they are adopted and finalized; and through commitments discouraging corruption and establishing codes of conduct to promote high ethical standards among public officials.

Section 2(c). Capacity building and other priorities

The Bipartisan Congressional Trade Priorities and Accountability Act of 2015 establishes for the first time priorities related to capacity building for U.S. trading partners as a means of addressing and maintaining U.S. competitiveness in the global economy. Section 2(c) directs the heads of relevant Federal agencies to work to strengthen the capacity of U.S. 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 to provide technical assistance if needed. It is the Committee's expectation that capacity building be directed to each of these elements. Relevant Federal agencies are also directed to seek to establish consultative mechanisms to strengthen the capacity of U.S. trading partners to develop and implement standards for the protection of the environment and human health based on sound science, and to promote consideration of multilateral trade agreements. The agencies are also to submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives an annual report on capacity-building activities undertaken in connection with trade agreements.

Section 3. Trade agreements authority

Section 3 provides that the President may enter into trade agreements subject to the trade authorities procedures prescribed in the present bill before July 1, 2018 or, if such procedures are extended as provided in section 3(c), before July 1, 2021.

Section 3 contains two different procedures for implementing trade agreements. The first procedure pertains to implementing the results of certain tariff-only negotiations; the second procedure pertains to implementing all the results of other tariff negotiations, as well as other changes to U.S. law required by trade agreements.

Section 3(a). Tariff proclamation authority

Section 3(a) contains the first of these two procedures, commonly referred to as “tariff proclamation authority.” Tariff proclamation authority permits the President to proclaim the results of certain tariff negotiations and commitments directly into U.S. law, without need for separate legislation. The President must notify Congress of his intention to enter into an agreement under section 3(a). One recent example of a commitment result that would fall within this authority is the commitment the United States is undertaking through APEC to reduce its tariffs on certain environmental goods to no more than 5% by the end of 2015.

Section 3(a) imposes limits on the President’s tariff proclamation authority: where a current duty rate exceeds 5 percent ad valorem, the President would not be authorized to reduce it by more than 50 percent. Any greater reduction would have to be approved by Congress. Where a current duty rate is 5 percent ad valorem or less, the President may reduce it or eliminate it without separate congressional approval.

An additional restriction on proclamation authority pertains to tariffs on certain import-sensitive agricultural products. The President may not proclaim reductions of tariff rates on such products below the rates applicable under the Uruguay Round Agreements. Products subject to this restriction are those agricultural products as to which the U.S. rate of duty was lowered by no more than 2.5 percent on the day the WTO Agreements went into effect (January 1, 1995). Tariff reductions on these products must be approved in separate legislation, described in section 3(b).

Finally, the President may not, by proclamation, increase any rate of duty above the rate applied on the date this bill is enacted. Any such increases would require separate legislation.

To the extent that tariff reductions may be implemented by proclamation, the bill requires that, in general, such reductions take place in stages. The stages may vary in size from period to period. However, the aggregate reduction in place at any given time may not exceed the aggregate reduction that would have been in place if, beginning on the date an agreement is implemented, tariffs had been reduced in equal annual stages of the greater of either 3 percent ad valorem, or one-tenth of the total reduction. The bill permits the President to round numbers off, within limits, to simplify staging calculations.

An exception to the staging requirements is made where the U.S. International Trade Commission determines that there is no domestic production of an article.

Finally, the bill reaffirms the residual proclamation authority granted to the President in section 111(b) of the Uruguay Round Agreements Act (“URAA”). That provision authorizes the President to proclaim certain tariff rate changes for articles that were the subject of duty elimination or harmonization negotiations during the Uruguay Round of multilateral trade negotiations.

The present bill (in section 3(a)(7)) also grants the President authority to modify any duty or the staged rate reduction of any duty, pursuant to a reciprocal elimination or harmonization of duties under the auspices of the WTO, regardless of whether the sector at issue had been subject to duty elimination or harmonization negotiations during the Uruguay Round. This authority is not subject to the ordinary limitations on the scope of proclaimed tariff reductions, the prohibition on proclaimed tariff increases, and the staging rules. However, this authority may not be used to proclaim the reduction or elimination of tariffs on import sensitive agricultural products as provided for in section 3(a)(3)(B).

Tariff reductions proclaimed under section 3(a)(7) of the present bill, like tariff reductions proclaimed under section 111(b) of the URAA, are subject to the layover and consultation requirements prescribed by section 115 of the URAA. That is, the President must receive advice from the appropriate industry advisory committee and the ITC on the proposed proclamation, and the proclamation must lie before the Senate Finance and House Ways and Means Committees for a period of 60 days before going into effect, in order to give the Committees an adequate opportunity to consult with the President on the proposed changes.

Section 3(b). Agreements on tariff and nontariff barriers

The second procedure for implementing trade agreements is found in Section 3(b) and is commonly referred to as “trade authorities procedures.” Section 3(b)(1) authorizes the President to enter into a trade agreement with a foreign country when the President determines that any duty or other import restriction, or any other barrier to or distortion of international trade, unduly burdens or restricts the foreign trade of the United States or adversely affects the U.S. economy, or that the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect, and that entering into such agreement will promote the purposes, policies, priorities and objectives of this bill. The agreement must provide for the reduction or elimination of such duty, barrier or other distortion or prohibit or limit the imposition of such a barrier or distortion.

Conditions. Section 3(b)(2) provides that the trade agreement approval procedures may be used only if the agreement makes progress in meeting the applicable objectives set forth in sections 2 (a) and (b) (Overall and Principal Trade Negotiating Objectives), and the President satisfies the requirements set forth in sections 4 and 5 (Congressional Oversight, Consultations, and Access to Information and Notice, Consultations, and Reports).

Bills qualifying for trade authorities procedures. Section 3(b)(3) 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 the Trade Act of 1974 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).

The Committee intends to extend authority to the President to negotiate agreements subject to the trade authorities procedures similar to that given to past Presidents. 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 authorities procedures 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, which are permitted only because of the co-equal status that the executive and legislative branches share in the area of trade. The President and Congress both have 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.

The Committee believes that these procedures should apply only to meet the special requirements of trade agreements. Further, the 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 Act 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 take a strict interpretation of this requirement.

Time period. Sections 3(a)(1)(A) and 3(b)(1)(C) grant trade promotion authority for agreements entered into before July 1, 2018. An extension until July 1, 2021 would be permitted unless Congress passed a disapproval resolution, as described under section 3(c). New language is included in the bill to clarify that any substantial modifications or substantial additional provisions of a trade agreement entered after July 1, 2018 (or July 1, 2021 if trade authorities procedures are extended), shall not be eligible for approval under trade authorities procedures. This will ensure that trade agreements are concluded only within the time frame authorized by Congress and that substantial modifications or additions after that date are not eligible for approval under trade authorities procedures.

Extension procedures. Section 3(c) outlines a process for extending the tariff proclamation authority of section 3(a) and the trade authorities procedures of section 3(b). Under this process, the President must request the extension from Congress and provide his reasons for that request, along with an explanation of the trade agreements for which he expects to need fast track authority, and a description of the progress he has made to date toward achieving the purposes, policies, priorities, and objectives of the present bill. The President must promptly notify an extension request to the Advisory Committee for Trade Policy and Negotiations established under section 135 of the Trade Act of 1974, which then must file its own report with Congress. The President also must promptly notify the International Trade Commission of his request for an extension. The International Trade Commission must file a report that contains a review and analysis of the economic impact on the United States of all trade agreements implemented between the date of enactment of this bill and the date upon which the President requests an extension.

Consistent with prior law, the President's request for an extension to July 1, 2021 will be granted, unless either House of Congress passes a "resolution of disapproval." Any Member of Congress may introduce such a resolution in his or her respective House of Congress. Such a resolution will be referred, in the Senate, to the Committee on Finance, and in the House, jointly to the Committee on Ways and Means and the Committee on Rules. Floor action on such a resolution will not be in order unless the resolution is reported by the aforementioned committees.

In the event the Committee on Finance reports an extension disapproval resolution, the resolution will be considered on the Senate floor under the expedited procedures set forth in section 152(e) of the Trade Act of 1974. In the event the Committee on Ways and Means and the Committee on Rules report an extension disapproval resolution, the resolution will be considered on the House floor under the expedited procedures set forth in section 152(d) of that Act.

Commencement of negotiations. In order to contribute to the continued economic expansion of the United States, section 3(d) directs the President to commence negotiations covering tariff and nontariff barriers where the President determines that such negotiations are feasible, timely, and would benefit the United States. In doing so, the President must take into account all of the trade negotiating objectives set out in section 2.

Section 4. Congressional oversight, consultations, and access to information

The Bipartisan Congressional Trade Priorities and Accountability Act of 2015 significantly strengthens the requirements on consultations and access to information the President must meet with respect to Congress and the public both during trade negotiations and before a trade agreement may enter into force. Section 4 contains new consultation and information sharing provision, establishing additional requirements not previously set out in trade promotion authority legislation. The enhanced consultation requirements of this section reflect the necessity of close and regular legislative-executive consultation and coordination to ensure that, during negotiations, the President seeks to achieve the trade negotiating objectives set out in section 2. Close consultation and coordination by the President with Congress during negotiations increases the likelihood that Congress will support a trade agreement concluded by the President. If the President fails to meet these new and expanded consultation requirements, and the requirements of sections 5 and 6 of the bill (discussed below), Congress can disallow application of trade authorities procedures to a bill implementing a trade agreement through a procedural disapproval resolution or a consultation and compliance resolution.

Section 4(a). Consultation with members of Congress

Section 4(a) establishes new consultation requirements the United States Trade Representative must meet during negotiations and prior to a trade agreement entering into force. The bill for the first time requires the United States Trade Representative to meet upon request with any Member of Congress and provide pertinent documents relating to the negotiations, including classified materials. The Committee expects that these consultations will be held promptly and that they will be responsive in scope to the Member's request. The United States Trade Representative must consult closely with the Committee on Finance of the Senate, and the Committee on Ways and Means of the House of Representatives, and with respect to negotiations relating to agricultural trade, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committee on Agriculture of the House of Representatives. The United States Trade Representative must also consult closely with the Congressional Advisory Groups on Negotiations (discussed further below). While previous versions of TPA required close consultations with this Committee, the Committee specifically intends that these consultations and the sharing of negotiating text will be expansive in scope and as detailed as feasible. Such

consultations must be meaningful and timely, including consulting on negotiating positions before those positions are shared with cleared advisors or our trading partners.

For the first time, the bill establishes consultation requirements for the Administration to follow when determining whether to bring an agreement into force. Before a trade agreement enters into force, the United States Trade Representative must consult with Members of Congress, committees of jurisdiction, and the Congressional Advisory Groups and keep them fully apprised of the measures a trading partner has taken to comply with the provisions of the trade agreement. The Committee expects the Administration to maintain the same level of detailed and timely consultations prior to entry into force as it maintains in other stages of the negotiations.

Additionally, within 120 days after this bill is enacted, the United States Trade Representative will be required, in consultation with the chairmen and ranking members of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, to develop written guidelines on enhanced coordination with Congress. The guidelines will establish procedures 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 Committee intends to play a substantial and meaningful role in the development and finalization of these guidelines.

The expanded requirements set out in this section regarding the sharing of text with Members and appropriate staff reflects the importance of detailed engagement with Members to ensure that trade agreements reflect the priorities set out in this bill. The bill provides that staff members are entitled to receive information regarding trade negotiations, while acknowledging security clearances may be required of staff where classified information is being reviewed. It is the expectation of the Committee that the United States Trade Representative will carefully monitor its classification procedures to ensure that material is not overclassified. The Committee expects that consultations and the sharing of text will be prompt and responsive in scope to the Member's request.

Section 4(b). Designated congressional advisers

Designated congressional advisers are any Members of Congress so designated, in the Senate, by the President pro tempore, in consultation with the chairman and ranking member of the Committee on Finance, and in the House of Representatives, by the Speaker of the House, in consultations with the chairman and ranking member of the Committee on Ways and Means. The United States Trade Representative must consult closely with any congressional adviser so designated. Additionally, the United States Trade Representative, on behalf of the President, must accredit designated congressional advisers as official advisers to the United

States delegation to international conferences, meetings, and negotiating sessions relating to trade agreements.

Section 4(c). Congressional advisory groups on negotiations

Section 4(c) establishes the Senate and House Advisory Groups on Negotiations. The membership of the Senate Advisory Group on Negotiations is to be comprised of the chairmen and ranking member of the Committee on Finance, and three additional members of the Committee (with no more than two from the same political party), plus the chairman and ranking member of any committee with jurisdiction over provisions of law affected by a trade agreement. The House Advisory Group on Negotiations would be similarly comprised. Members of the Senate and House Advisory Groups on Negotiations will be accredited by the United States Trade Representative, on behalf of the President, as official advisers to the United States delegation in negotiations for any trade agreement subject to trade authorities procedures. Section 4(c) further provides that the House and Senate Advisory Groups on Negotiations will consult with and provide advice to the United States Trade Representative regarding the formulation of specific objectives, negotiating strategies and positions; the development of the applicable trade agreement; and the compliance with and enforcement of the negotiated commitments under the trade agreement.

Within 120 days after this bill is enacted, the United States Trade Representative will be required, in consultation with the chairmen and ranking members of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, to develop written guidelines to facilitate the exchange of information with the House and Senate Advisory Groups on Negotiations. The guidelines will establish procedures concerning detailed briefings on a fixed timetable; access to pertinent documents, including classified materials; coordination between the United States Trade Representative and the House and Senate Advisory Groups on Negotiations, including at negotiation sites; and, after a trade agreement has been concluded, ongoing compliance and enforcement efforts. The Committee intends to play a substantial and meaningful role in the development and finalization of these guidelines.

Section 4(d) and 4(e). Consultations with the public and with advisory committees

Within 120 days after this bill is enacted, the United States Trade Representative, in consultation with the chairmen and ranking members of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, is to develop guidelines on public access to information regarding negotiations with the purpose of facilitating transparency, encouraging public participation, and promoting collaboration. Also within 120 days, the United States Trade Representative, in consultation with the chairmen and ranking members of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of

Representatives, is to develop guidelines regarding the advisory committees established under section 135 of the Trade Act of 1974. The guidelines are to ensure timely briefings and regular opportunities to provide input, and the sharing of detailed and timely information regarding negotiations, including pertinent documents. The Committee intends to play a substantial and meaningful role in the development and finalization of these guidelines.

Section 4(f). Establishment of Chief Transparency Officer in the Office of the United States Trade Representative

The bill amends Section 141(b) of the of the Trade Act of 1974 to create a Chief Transparency Officer at the Office of the United States Trade Representative with the responsibility of consulting with Congress regarding transparency policy, coordinating transparency in trade negotiations, engaging and assisting the public, and advising the United States Trade Representative on transparency policy. The addition of this requirement reflects the importance the Committee places on ensuring transparent engagement with the public and the role of Congress in overseeing USTR transparency policies.

Section 5. Notice, consultations, and reports

Section 5 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 establishes procedures for consultations between Congress and the President before negotiations on a trade agreement commence, during negotiations, and before a trade agreement enters into force. The purpose of the requirements established under section 5 is to help ensure close coordination and consultation at every stage of trade agreement negotiation.

Section 5(a)(1) requires the President to provide written notice to Congress at least 90 calendar days prior to entering into negotiations with a country. In the notice, the President must set forth the date on which he intends to initiate negotiations, the specific objectives for the negotiations, and whether the President intends to seek a new agreement, or to change an existing agreement. Failure to provide notice may trigger the introduction and consideration of a procedural disapproval resolution or a consultation and compliance resolution under the provisions of section 6(b). If a procedural disapproval resolution or a consultation and compliance resolution were adopted, it would withdraw trade authorities procedures for legislation implementing the agreement at issue. The Committee intends that consultations should be robust and meaningful and that the Administration consult closely with Congress during the exploratory phase. The Committee believes that it is essential that the United States not join a consensus in favor of a new entrant to an agreement that is already being negotiated if that entrant is not willing and able to live up to the standard of the agreement, or if its entry would negatively affect, rather than advance, U.S. objectives of the agreement.

Section 5(a)(1)(B) requires the President to consult with relevant Committees, and the Congressional Advisory Groups on Negotiations, regarding the negotiations before and after formal submission of the notice of intention to negotiate. Section 5(a)(1)(C) requires the President, upon the request of a majority of the members of either the House or Senate Advisory Group on Negotiations, to meet with the requesting advisory group before initiating negotiations or at any other time concerning the negotiations. Section 5(a)(1)(D) requires, for the first time, that the United States Trade Representative will publish, at least 30 calendar days before initiating negotiations with a country, a detailed and comprehensive summary of the objectives with respect to the negotiations, and thereafter regularly update the summary, as appropriate.

Section 5(a)(2) establishes a special consultation requirement before the President initiates negotiations with a country concerning tariff reductions in agriculture. The provision requires the President to assess whether U.S. tariffs on agricultural products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country. In his assessment, the President is also required to consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than U.S. tariffs on like products, and whether the negotiation provides an opportunity to address any such disparity.

The President is required to consult with the Committees on Ways and Means and Agriculture of the House, and the Committees on Finance and Agriculture, Nutrition, and Forestry of the Senate, concerning the results of this assessment, whether it is appropriate for the United States to agree to further tariff reductions under such circumstances, and how all applicable negotiating objectives will be met.

Section 5(a)(2)(B) sets forth special consultation procedures for import-sensitive agricultural products. It requires the United States Trade Representative, before initiating agriculture negotiations, to identify import-sensitive agricultural products, and 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 whether further tariff reductions on these products would be appropriate, whether these products face unjustified sanitary and phytosanitary restrictions, and whether the countries participating in the negotiations maintain export subsidies or other programs that distort world trade in these products. The United States Trade Representative also must request that the International Trade Commission prepare an assessment of the probable economic effect of any tariff reduction on the U.S. industry producing an import-sensitive agricultural product. After complying with these provisions, the United States Trade Representative must notify the aforementioned Committees of his or her intention to seek tariff liberalization in the identified products. Further, if during the course of negotiations additional import-sensitive agricultural products become candidates for tariff reductions, the United States Trade Representative must

notify the aforementioned Committees promptly and explain the reasons for seeking the proposed tariff reductions.

Section 5(a)(3) requires the President, before initiating or continuing negotiations directly related to fish or shellfish trade, to consult with the Committee on Ways and Means and the Committee on Resources of the House of Representatives, and the Committee on Finance and the Committee on Commerce, Science, and Transportation of the Senate and to keep these Committees apprised of negotiations on an ongoing and timely basis.

Section 5(a)(4) sets forth a special consultation requirement for negotiations regarding textiles. Before initiating trade negotiations with a country, the bill requires the President to assess whether U.S. textile and apparel tariffs bound under the Uruguay Round Agreements are lower than tariffs bound by that country, and whether the negotiation affords an opportunity to address that disparity. The President then must consult with the House Ways and Means Committee and the Senate Finance Committee about his assessment, whether the United States should agree to further textile and apparel tariff reductions, and how all applicable negotiating objectives will be met.

The Committee believes that a country's demonstrated commitment, and demonstrated ability, to meet its current international trade and investment commitments is an important factor that should have a strong bearing on whether a prospective trading partners is ready and able to undertake trade obligations which will reflect the higher standards that a reciprocal trade agreement with the United States requires. Therefore, section 5(a)(5) requires the President, in determining whether to enter into a trade agreement with a particular country, to take into account the extent which the country has implemented its international trade and investment commitments to the United States

Section 5(b) sets forth consultation requirements the President must meet before entering into an agreement. The President, before entering into any trade agreement, must consult with the relevant Committees and the Congressional Advisory Groups on Negotiations concerning the nature of the agreement; how and to what extent the agreement will achieve the applicable purposes, policies, and objectives set forth in section 2; and all matters relating to implementation under section 6, including the general effect of the agreement on U.S. laws.

Under section 5(b)(3), at least 180 calendar days before entering into a trade agreement, the President must notify the House Committee on Ways and Means and the Senate Committee on Finance of any proposals that may be in the final agreement that could require changes to the antidumping, countervailing duty, or safeguard laws of the United States. At any time after receiving the report from the President, either Chamber of Congress may consider a resolution

finding that the proposed changes to U.S. trade remedy laws are inconsistent with the negotiating objectives set out in section 2(b)(16).

Section 5(c) requires the President, at least 90 days before entering into a trade agreement, to ask the International Trade Commission to assess the agreement, including the likely impact of the agreement on the U.S. economy as a whole, specific industry sectors, and U.S. consumers. The ITC's report of its assessment must be transmitted to Congress and the President not later than 105 days from the date on which the President enters into the agreement. For the first time the report is required to be made public in the interest of greater transparency.

Section 5(d) – (f) sets out reports that the President must submit to Congress with a trade agreement. The reports consist of an environmental review, an employment impact review, and a meaningful labor rights report on country with which the President is negotiating along with a detailed and comprehensive description of any provision that would require changes to the labor laws and labor practices of the United States. The reports are to be submitted to the Committee on Ways and Means of the House and the Committee on Finance of the Senate, and are to be made public.

The President, at the same time he submits a copy of the final legal text to Congress, is also required to submit to Congress a plan for implementing and enforcing the agreement, including descriptions of additional personnel required at border entry points, additional personnel required by Federal agencies responsible for monitoring and implementing the trade agreement, additional equipment and facilities needed by U.S. Customs and Border Protection, and the impact the trade agreement will have on State and local governments, with an analysis of the cost of each.

The President must also submit, not later than one year after the United States imposes a penalty or remedy permitted by a trade agreement, a report on the effectiveness of the remedy, including whether the remedy was effective in changing the behavior of the targeted party and whether the remedy had any adverse impact on U.S. entities. The United States International Trade Commission, not later than one year after the date of the enactment of this Act, and not later than 5 years thereafter, is to submit 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. Prior to preparing these reports, it is expected that the International Trade Commission will consult with this Committee 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.

The Committee believes it needs to be fully informed of the actions the Administration is taking to enforce obligations under the trade agreements. Therefore the bill requires the United States Trade Representative to consult with the Committee on Ways and Means of the House 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. The Committee expects to be fully informed regarding the nature of the enforcement action, including the legal basis on which it is predicated, as part of these consultations.

Section 6. Implementation of Trade Agreements

Section 6 sets forth conditions the President must meet for a trade agreement entered into under trade authorities procedures to enter into force, and establishes the conditions under which Congress may withdraw the application of trade authorities procedures to a trade agreement and the procedures for doing so.

Section 6(a) specifies the documentation that the President must transmit to Congress to enable Congress to make a fully informed decision as to whether to approve a trade agreement. The requirement set out here complements the various requirements that the President consult with Congress during the course of an agreement's negotiation. Consultation during negotiation, combined with a complete accounting after negotiation, will enable Congress to participate in the trade policymaking process to the fullest extent of its constitutional authority.

At least 90 days before entering into a trade agreement subject to this bill, the President must notify Congress of his intention to enter into the agreement and publish notice of that intention in the Federal Register. For the first time, the President, at least 60 days before entering into the agreement, must publish the text of the agreement on the website of the Office of the United States Trade Representative. Within 60 days after entering into the agreement, the President must transmit to Congress a description of changes to U.S. law he believes would be necessary to bring the United States into compliance with the agreement. At least 30 days before submitting to Congress the materials required by the bill to accompany the submission to Congress of the final legal text of the agreement (i.e., the complete agreement, including any legal and technical corrections and clarifications made subsequent to the publication of the text on the USTR website), the President is to submit to Congress a draft statement of any administrative action proposed to implement the agreement, and a copy of the final legal text of the agreement.

Collectively, these provisions help ensure that Congress is given adequate time and documentation to fully understand a trade agreement subject to this bill and inform the consideration of legislation to implement that agreement. In particular, by making the text of the agreement public 60 days before the President enters into the agreement, the public will have time to examine the agreement and inform Congress of their views. Furthermore, by requiring the receipt of a draft statement of administrative action and a copy of the final legal text of the agreement at least 30 days before the President provides the final legal text of the agreement to

Congress, the bill ensures Congress will have adequate time to review the agreement and develop implementing legislation before the timeline for the consideration of implementing legislation set out in section 151 of the Trade Act of 1974 begins.

Before Congress considers a bill implementing a trade agreement, the President must submit to Congress, on a day on which both Houses of Congress are in session: (1) the final legal text of the agreement, (2) a draft bill to implement the agreement; (3) a statement of administrative action proposed to implement the agreement; and (4) additional supporting information (described in greater detail, below).

It is the expectation of the Committee that, for any agreement subject to trade authorities procedures under the present bill, the draft implementing bill and statement of administrative action will be developed by the President in close collaboration with the Committees of jurisdiction in both Houses of Congress. This has been the practice under trade promotion authority legislation. Because an implementing bill subject to trade authorities procedures is not subject to amendment, close cooperation between the executive branch and the Committees of jurisdiction prior to the bill's introduction is essential for positive consideration of the implementing bill. In addition to such cooperation, the Committee expects that other past practices – such as hearings, informal markups, and informal conferences between House and Senate Committees of jurisdiction – will precede formal transmittal of a trade agreement, draft implementing bill, and supporting documentation to Congress. To ensure that the legislative and executive branches have adequate time to complete these pre-transmittal processes, the bill establishes no deadline for transmittal. It simply provides, in section 6(a)(1)(E), that this is to happen “after entering into the agreement.”

The supporting information that the President must transmit to Congress, along with the agreement, draft implementing bill, and statement of administrative action, consists of:

- An explanation as to how the bill and proposed administrative action will change or affect existing law.
- A statement asserting that the agreement makes progress in achieving the applicable purposes, policies, and objectives set forth in section 2 of the bill, and an explanation of how and to what extent it does so. This should be a detailed statement, addressing each of the applicable purposes, policies, and objectives in section 2 (recognizing that there may be certain purposes, policies, and objectives that are not applicable).
- A statement of whether and how the agreement changes provisions of previously negotiated agreements.
- A statement of how the agreement serves the interests of U.S. commerce.
- A statement of how the draft implementing bill meets the requirements for the application of trade authorities procedures, set out in section 3(b)(3) of the bill. Section 3(b)(3)

provides that the rules for the consideration of bills implementing a trade agreement contained in section 151 of the Trade Act of 1974 apply only if the implementing bill contains certain provisions. As explained above, such bills must (1) contain a provision approving the underlying trade agreement and the proposed statement of administrative action, and (2) only contain changes to existing law that are strictly necessary or appropriate to implement the underlying agreement. The supporting information accompanying transmittal of the bill must explain how the bill meets each of these requirements. In particular, it is important that the President explain his reasons for believing that the changes to existing law contained in the bill are strictly necessary or appropriate to implement the agreement.

To ensure that a trade agreement does not inadvertently bestow benefits on countries not party to the agreement, section 6(a)(3) requires that an implementing bill provide explicitly that benefits and obligations under the agreement apply only to the parties to the agreement. This section also provides that an implementing bill may treat different trade agreement partners other than uniformly, if such treatment is consistent with the underlying agreement.

Section 6(a)(4) provides that in enacting a trade agreement implementing bill, any side agreements between governments that have not been disclosed to Congress will not be considered as part of the agreement approved by Congress. In other words, Congress's approval of a trade agreement is not an approval of any undisclosed deals that may be ancillary to that agreement. It is an approval only of those terms that have been expressly disclosed and identified to Congress.

Section 6(b) sets forth certain conditions under which a trade agreement implementing bill's eligibility for consideration under trade authorities procedures may be withdrawn. Section 6(b) establishes three circumstances under which the trade authorities procedures described in section 3(b)(3) of the bill will not apply to trade agreement implementing legislation. First, trade authorities procedures will not apply to a particular agreement if a procedural disapproval resolution has been adopted by Congress with respect to that agreement. Second, trade authorities procedures will not apply to an agreement if a consultation and compliance resolution has been adopted by either Chamber of Congress with respect to that agreement. Third, trade authorities procedures will not apply if the Secretary of Commerce fails to transmit to Congress, by December 15, 2015, a report identifying a strategy for the United States to redress past instances in which WTO dispute settlement panels have effectively added to obligations or diminished rights of the United States.

A procedural disapproval resolution may be introduced at any time by any Member of either House. The language of the resolution is prescribed by section 6(b)(1)(B) of the bill. A procedural disapproval resolution, if adopted, withdraws application of trade authorities

procedures to any implementing bill submitted with respect to a trade agreement or agreements as to which the President has failed or refused to notify or consult, as defined by the bill (and discussed in detail below). The Member introducing the resolution must identify in the resolution the agreement or agreements as to which that Member believes the President has failed or refused to notify or consult with Congress.

Upon introduction, a procedural disapproval resolution will be referred to the Committee on Ways and Means and the Committee on Rules in the House of Representatives, and to the Committee on Finance in the Senate. A procedural disapproval resolution may not be amended, and may not be considered on the floor of the House unless it has been reported by the Committee on Ways and Means and the Committee on Rules, or the floor of the Senate unless it has been reported by the Committee on Finance.

If a procedural disapproval resolution is reported by the Committee or (in the House) Committees to which it has been referred, the procedural disapproval resolution will be considered under expedited procedures in the Chamber to which it has been reported, as set out in section 152(d) and (e) of the Trade Act of 1974. Under those rules, a motion to proceed to consideration of a qualifying procedural disapproval resolution is considered privileged (in the Senate) or highly privileged (in the House), and time for debate is limited. A procedural disapproval resolution with respect to a particular agreement may be considered under these rules in a given Chamber only once per Congress. For trade authorities procedures to be withdrawn pursuant to a disapproval resolution, both Houses of Congress must adopt the procedural disapproval resolution within 60 days of one another.

Section 6(b)(3) and (4) creates a new 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 the 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 the 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 to consider an implementing bill, it plans to report 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 Ways and Means Committee of the House and Finance Committee of the Senate 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 Section 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.

Both a procedural disapproval resolution and a consultation and compliance resolution withdraw trade authorities procedures for an implementing bill when the President has failed or refused to comply notify or consult in accordance with the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 with respect to negotiations of the trade agreement submitted with the implementing bill. The term “failed or refused to notify or consult in accordance with the Bipartisan Congressional Trade Priorities and Accountability Act of 2015” is defined to make clear that the President has not met his obligations simply by going through the formalities of consultations. Section 6(b)(1)(B)(ii) establishes that the President has failed or refused to notify or consult if:

- The President has failed to consult in compliance with the consultation requirements of sections 4 through 6 of this bill;
- The U.S. Trade Representative has failed to develop or meet the consultation guidelines required by section 4 of the bill;
- The President has not met with the Congressional Advisory Groups on Negotiations pursuant to a request of the groups; or
- The agreement or agreements at issue fail to make progress in achieving the purposes, policies, priorities, and objectives of the bill.

The bill also states that trade authorities procedures shall not apply to any implementing bill submitted with respect to a trade agreement entered into under section 3(b) with a country to which the minimum standards for the elimination of trafficking (as set forth in section 108 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7106)) are applicable and the government of which does not fully comply with such standards and is not making significant efforts to bring the country into compliance, as determined in the most recent annual report on trafficking in persons submitted under section 110(b)(1) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7107(b)(1)).

Section 6(c) affirms that the provisions for withdrawal of trade authorities procedures contained here and elsewhere in the bill are adopted pursuant to the constitutional authority of each House of Congress to determine the rules of its proceedings and to change those rules as it deems appropriate.

Section 7. Treatment of certain trade agreements for which negotiations have already begun

Section 7 provides that the requirements (set forth in section 4(a)) that the President notify and consult with Committees of jurisdiction in Congress before initiating trade agreement negotiations do not apply to certain negotiations already underway at date of enactment. Specifically, the pre-negotiation notice and consultation requirements do not apply to negotiations commenced before enactment of the present bill. This section applies to agreements (1) entered into under the auspices of the World Trade Organization, (2) entered into with the Trans-Pacific Partnership countries, (3) entered into with the European Union, (4) entered into with respect to international trade in services entered into with WTO members, or (5) with respect to environmental goods entered into with WTO members.

Since the foregoing negotiations already have commenced, the absence of the formal notification and consultation that ordinarily would be required before initiating negotiations will not preclude trade authorities procedures from being applied with respect to these agreements. Similarly, failure to formally notify and consult with Congress before initiating these agreements cannot form the basis for a disapproval resolution under section 5(b)(1)(B). However, all notification and consultation requirements that apply after negotiations have commenced will apply with equal force to the negotiations commenced and specified above.

Section 8. Sovereignty

The Bipartisan Congressional Trade Priorities and Accountability Act of 2015 specifies, for the first time, that no provision of any trade agreement entered into under trade authorities procedures that is inconsistent with the laws of the United States or any State or locality will have effect.

Section 8 further states that no provision of any trade agreement entered into under trade authorities procedures will prevent the United States or any State or locality from amending or modifying the laws of the United States or any State or locality, and that dispute settlement proceedings shall have no binding effect on the law of the United States or any State or locality.

Section 9. Interests of small businesses

Section 9 expresses the sense of Congress that the United States Trade Representative should facilitate participation by small businesses in the trade negotiation process, and designates Assistant USTR for Small Business, Market Access, and Industrial Competitiveness in the Office of the United States Trade as responsible for ensuring the interests of small business in trade negotiations are considered.

A. ADDENDUM

The Honorable Orrin G. Hatch
Chairman
Committee on Finance
United States Senate
Washington, DC 20510

Dear Chairman Hatch:

I am writing to express strong support for the Trade Promotion Authority (TPA) legislation introduced last week. The Bipartisan Congressional Trade Priorities and Accountability Act of 2015 is a critical step toward delivering high-quality trade agreements like the Trans-Pacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (T-TIP).

The Administration shares the concerns of many in Congress about the currency policies of some of our major trading partners. We know that unfair and inappropriate currency policies have hurt our workers and firms. This is why the Treasury Department remains strongly engaged with our trading partners, both bilaterally and through the G-7, the G-20, and the IMF. These efforts are showing real results: in particular, China's exchange rate is up nearly 30 percent on a real effective basis since 2010, and Japan has not intervened in the foreign exchange market for more than three years. Many Members of Congress and various stakeholders have made a strong case in favor of addressing currency in the context of trade agreements such as the TPP, and we support the current draft of the TPA that includes a strong currency negotiating objective.

We are committed to continuing to work with you and with other Members of Congress to best address currency concerns through approaches that complement our ongoing engagement on currency issues and help to expand U.S. exports and the high-quality jobs associated with trade.

In light of the currency objective that is included in the current TPA legislation, we began formal consultation with our TPP partners and had a number of these conversations last week during the Spring Meetings of the IMF and World Bank. Our partners indicated a willingness to constructively discuss our concerns about inappropriate currency policies, providing an opportunity to work with them to develop an historic new approach to promote greater accountability. Nonetheless, all of the partners consulted have made clear that they will not support the introduction of enforceable currency provisions in the context of trade agreements, and specifically, the TPP. Our partners fear that a trade agreement with an enforceable currency discipline could constrain the ability of their monetary authorities to conduct appropriate macroeconomic policies, and that is a risk they are unwilling to take.

We have a serious concern that in any trade negotiation other countries would insist that an enforceable currency provision be designed so it could be used to challenge legitimate U.S. monetary policy, an outcome we would find unacceptable. Seeking enforceable currency provisions would likely derail the conclusion of the TPP given the deep reservations held by our trading partners. As such, any amendment to TPA legislation requiring that the Administration only seek enforceable currency provisions as a principal negotiating objective would undermine our ability to successfully conclude a TPP negotiation.

We also oppose the current legislation that would use the countervailing duty process to address currency undervaluation. The legislation raises questions about consistency with our international obligations, and other countries might pursue retaliatory measures that could hurt our exporters. Taking such a unilateral step would be counterproductive to our ongoing bilateral and multilateral engagement, as well as to our efforts to promote greater accountability on currency policies in the context of the TPP.

We look forward to working with you to effectively address the currency issue in the context of our trade agreements. The passage of bipartisan TPA legislation will allow us to enter into trade agreements that expand opportunities for American businesses, create high-quality jobs, and further unlock the macroeconomic gains from expanded trade and investment. Reducing trade barriers and securing reforms abroad through well-crafted trade agreements benefit both U.S. economic competitiveness and global economic prosperity.

Sincerely,

Jacob J. Lew

Identical letter sent to:

The Honorable Ron Wyden

The Honorable Paul Ryan

cc: The Honorable Sander M. Levin

V. VOTES OF THE COMMITTEE

In compliance with paragraph 7(c) of rule XXVI of the Standing Rules of the Senate, the following statements are made concerning the roll call votes in the Committee's consideration of S. 995.

A. MOTION TO REPORT THE BILL

S. 995, as amended, was ordered favorably reported on April 22, 2015. The vote on the motion to report the bill was 20 to 6.

Ayes: Hatch, Grassley, Crapo, Roberts, Enzi, Cornyn, Thune, Isakson, Portman, Toomey, Coats, Heller, Scott, Wyden, Cantwell, Nelson, Carper, Cardin, Bennet, Warner.

Nays: Burr, Schumer, Stabenow, Menendez, Brown, Casey.

B. VOTES ON AMENDMENTS

Amendments offered to S. 995 were considered and disposed of as follows:

(1) Senators Cardin, Portman, Cantwell, Schumer, Menendez, Warner, Casey, and Heller offered an amendment to include, with respect to the Transatlantic Trade and Investment Partnership countries, a principal negotiating objective of the United States to discourage politically motivated actions to boycott, divest from, or sanction Israel or otherwise discourage commercial activity between the United States and Israel. The amendment was agreed to by a roll call vote, 26 ayes, 0 nays.

Ayes: Hatch, Grassley, Crapo, Roberts, Enzi (proxy), Cornyn, Thune, Burr, Isakson, Portman, Toomey, Coats, Heller (proxy), Scott, Wyden, Schumer, Stabenow, Cantwell, Nelson, Menendez (proxy), Carper, Cardin, Brown, Bennet, Casey, Warner.

(2) Senators Portman, Stabenow, Burr, Brown, Casey, and Schumer offered an amendment to include as a principal negotiating objective of the United States with regard to currency exchange practices to target exchange rate intervention undertaken to gain advantage in trade by establishing in trade agreements enforceable rules against exchange rate manipulation, subject to the same dispute settlement and remedies as other enforceable obligations under the agreement. The amendment was defeated by a roll call vote, 11 ayes, 15 nays.

Ayes: Grassley, Crapo, Enzi, Burr, Portman, Schumer, Stabenow, Menendez, Cardin, Brown, Casey.

Nays: Hatch, Roberts, Cornyn, Thune, Isakson, Toomey, Coats, Heller, Scott, Wyden, Cantwell, Nelson, Carper, Bennet, Warner.

(3) Senator Menendez offered an amendment to disallow the application of trade authorities procedures to trade agreements with countries included as a Tier III country on the State Department's Trafficking in Persons Report. The amendment was agreed to by a roll call vote, 16 ayes, 10 nays.

Ayes: Cornyn, Burr, Portman, Toomey, Coats, Wyden, Schumer (proxy), Stabenow, Cantwell, Nelson, Menendez, Cardin, Brown, Bennet, Casey, Warner.

Nays: Hatch, Grassley, Crapo, Roberts, Enzi, Thune, Isakson, Heller, Scott, Carper

(4) Senator Stabenow offered an amendment to disallow the application of trade authorities procedures to trade agreements with countries that engage in currency manipulation. The amendment was defeated by a roll call vote, 9 ayes, 17 nays.

Ayes: Grassley, Burr, Portman, Schumer (proxy), Stabenow, Menendez, Cardin, Brown, Casey.

Nays: Hatch, Crapo, Roberts, Enzi, Cornyn, Thune, Isakson, Toomey, Coats, Heller, Scott, Wyden, Cantwell, Nelson, Carper (proxy), Bennet, Warner.

(5) Senators Stabenow, Cantwell, and Brown offered an amendment to include equal remuneration as a core labor standard. The amendment was defeated by a roll call vote, 10 ayes, 16 nays.

Ayes: Schumer (proxy), Stabenow, Cantwell, Nelson, Menendez, Cardin, Brown, Bennet, Casey, Warner.

Nays: Hatch, Grassley, Crapo, Roberts, Enzi, Cornyn, Thune, Burr, Isakson, Portman, Toomey, Coats, Heller, Scott, Wyden, Carper (proxy).

(6) Senators Menendez and Brown offered an amendment to require parties to a trade agreement to implement measures to bring labor laws and regulations into compliance with the agreement before the agreement enters into force. The amendment was defeated by a roll call vote, 7 ayes, 19 nays.

Ayes: Schumer, Stabenow, Menendez, Cardin, Brown, Bennet, Casey.

Nays: Hatch, Grassley, Crapo (proxy), Roberts, Enzi, Cornyn, Thune, Burr, Isakson, Portman, Toomey, Coats, Heller, Scott, Wyden, Cantwell, Nelson, Carper, Warner.

(7) Senators Casey, Schumer, Stabenow, Menendez, Brown, and Cardin offered an amendment to disallow the application of trade authorities procedures to a trade agreement that would weaken, undermine or necessitate the waiver of the Buy American Act and the Buy America provisions of the Surface Transportation Assistance Act of 1982. The amendment was defeated by a voice vote.

(8) Senator Brown offered an amendment to the principal negotiating objectives of the United States regarding foreign investment to strike language concerning investor-state dispute settlement. The amendment was defeated by a roll call vote, 9 ayes, 17 nays.

Ayes: Schumer, Stabenow, Cantwell, Nelson, Menendez, Cardin, Brown, Bennet, Casey.

Nays: Hatch, Grassley, Crapo (proxy), Roberts, Enzi, Cornyn, Thune, Burr, Isakson, Portman, Toomey, Coats, Heller, Scott, Wyden, Carper, Warner.

(9) Senators Brown, Menendez, Stabenow, Casey, and Schumer offered an amendment to prevent countries not already party to the Trans-Pacific Partnership negotiations from joining the negotiations without certification by Congress that the country meets the standards of the Trans-Pacific Partnership negotiations. The amendment was defeated by a roll call vote, 11 ayes, 15 nays.

Ayes: Grassley, Portman, Schumer, Stabenow, Cantwell, Nelson, Menendez, Cardin, Brown, Bennet, Casey.

Nays: Hatch, Crapo, Roberts, Enzi, Cornyn, Thune, Burr, Isakson, Toomey, Coats, Heller, Scott, Wyden, Carper, Warner.

(10) Senator Menendez offered an amendment to the principal negotiating objectives of the United States regarding trade in goods to provide that new trade agreements should avoid negative effects on existing value chains established under previous trade agreements. The amendment was defeated by a roll call vote, 8 ayes, 18 nays.

Ayes: Schumer, Stabenow, Nelson, Menendez, Cardin, Brown, Bennet, Casey.

Nays: Hatch, Grassley, Crapo, Roberts, Enzi, Cornyn, Thune, Burr, Isakson, Portman, Toomey, Coats, Heller, Scott, Wyden, Cantwell, Carper, Warner.

(11) Senator Brown offered amendments, considered en bloc, to establish certain consultation requirements on automobiles, auto parts, and industrial products. The amendments were defeated by a roll call vote, 10 ayes, 16 nays.

Ayes: Portman, Schumer, Stabenow, Cantwell, Menendez, Cardin, Brown, Bennet, Casey, Warner.

Nays: Hatch, Grassley (proxy), Crapo, Roberts, Enzi, Cornyn, Thune, Burr, Isakson, Toomey, Coats, Heller, Scott, Wyden, Nelson, Carper.

(12) Senator Brown offered an amendment to require that, in order for a trade agreement to be considered under trade authorities procedures, the Senate Finance Committee and the House Ways and Means Committee must certify that trade agreement achieves the negotiating objectives of the United States. The amendment was defeated by a roll call vote, 7 ayes, 19 nays.

Ayes: Schumer, Stabenow, Cantwell, Menendez, Cardin, Brown, Casey.

Nays: Hatch, Grassley (proxy), Crapo, Roberts, Enzi, Cornyn, Thune, Burr, Isakson, Portman, Toomey, Coats, Heller, Scott, Wyden, Nelson, Carper, Bennet, Warner.

(13) Senator Cardin offered an amendment to establish as a principal negotiating objective 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. The amendment was agreed to by voice vote.

VI. BUDGETARY IMPACT OF THE BILL

A. COMMITTEE ESTIMATES

In compliance with paragraph 11(a) of rule XX I of the Standing Rules of the Senate and section 308 of the Congressional Budget and Impoundment Control Act of 1974, as amended (the “Budget Act”), the following statement is made concerning the estimated budget effects of the revenue provisions of the bill.

Enacting S. 995 would have no budget impact.

B. BUDGET AUTHORITY AND TAX EXPENDITURES

Budget authority. In compliance with section 308(a)(1) of the Budget Act, the Committee states that no provision of the bill as reported involves new or increased budget authority.

Tax expenditures. In compliance with section 308(a)(1) of the Budget Act, the Committee states that the bill will result in no change in tax expenditures.

C. CONSULTATION WITH CONGRESSIONAL BUDGET OFFICE

In accordance with section 402 of the Budget Act, the Committee advises that the Congressional Budget Office has submitted the following statement on the budgetary impact of the bill.



**CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE**

April 30, 2015

**S. 995
Bipartisan Congressional Trade Priorities and Accountability
Act of 2015**

As ordered reported by the Senate Committee on Finance on April 22, 2015

The Bipartisan Congressional Trade Priorities and Accountability Act of 2015 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.

The bill 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 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 provision.

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 the legislation 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.

The bill 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.

On April 29, 2015, CBO transmitted a cost estimate for H.R. 1890, the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, as ordered reported by the House Committee on Ways and Means on April 23, 2015. This bill contains similar language to that of H.R. 1890 and CBO's estimates of the budgetary effects of the two pieces of legislation are the same.

The bill 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.

April 30, 2015

Honorable Orrin G. Hatch
Chairman
Committee on Finance
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

The Congressional Budget Office has prepared the enclosed cost estimate for S. 995, 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, who can be reached at 226-2840.

Sincerely,

Keith Hall
Director

Enclosure

cc: Honorable Ron Wyden
Ranking Member

VII. REGULATORY IMPACT AND OTHER MATTERS

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee states that the bill will not significantly regulate any individuals or businesses, will not affect the personal privacy of individuals, and will result in no significant additional paperwork.

The following information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104-4). The Committee has reviewed the provisions of S. 995 as approved by the Committee on April 22, 2015. In accordance with the requirements of Pub. L. No. 104-04, the Committee has determined that the bill contains no intergovernmental mandates, as defined in the UMRA, and would not affect the budgets of state, local, or tribal governments.

VIII. ADDITIONAL VIEWS

ADDITIONAL VIEWS OF SENATOR HELLER

One amendment of this report deserves further elaboration. On April 22, Senator Menendez's #1 amendment to S.995 passed by a vote of 16-10. The amendment passed as a part of legislation to establish congressional trade negotiating objectives and enhanced consultation requirements for trade negotiations.

As someone who offered an amendment that was included in the Senate-passed human trafficking legislation, the Justice for Victims of Trafficking Act, this is a very important issue to Nevadans. That being said, I do not believe human trafficking should be the sole litmus test on expedited consideration of trade legislation. I look forward to working with my colleagues on the most effective ways to eradicate human trafficking in all countries.

ADDITIONAL VIEWS OF SENATOR WYDEN

I have one additional comment regarding this bill. With respect the investment negotiating objectives, I note that it may be appropriate in some circumstances to limit the scope of remedies available to investors in certain sectors or products in the interest of public health, and the negotiating objectives in the bill with respect to investment do not exclude that possibility. This understanding is consistent with the overall negotiating objective requiring negotiators to take into account legitimate domestic objectives such as the protection of legitimate health or safety.

IX. MINORITY VIEWS

MINORITY VIEWS OF SENATOR BROWN, SENATOR CASEY, AND SENATOR STABENOW

The Bipartisan Trade Promotion Authority provides fast track authority to the President for the purposes of completing the Trans-Pacific Partnership and the Transatlantic Trade and Investment Partnership, as well as other agreements. Together, TPP and TTIP account for more than 60 percent of the world's gross domestic product and will have an enormous impact on the United States economy. It is critical that we get these agreements right. Unfortunately, the negotiating objectives in the underlying bill are insufficient, and the fast track process leaves little room for Congress to ensure our trade agreement will create jobs and grow wages for American workers.

First, the negotiating objectives outlined in the bill are not mandatory. The bill stipulates only that the President "make progress in achieving" the negotiating objectives. As a result, the President is not required to negotiate an agreement that meets the priorities provided by Congress in the negotiating objectives. This is particularly convenient for the Administration with respect to TPP, for which negotiations are nearly complete. It is difficult to see how the priorities outlined by Congress in this bill could influence the trade talks at such a late stage.

Second, the negotiating objectives are not strong enough, and efforts to strengthen them were blocked in committee. The labor and environment negotiating objective, for example, does not require U.S. trading partners to meet the labor and environmental standards before receiving the benefit of an agreement. This is of particular concern for TPP, which includes Vietnam where workers do not have the right to collectively bargain or choose their own representation. An amendment was offered in committee to ensure trading partners' compliance before an agreement is implemented, but it was defeated. Another amendment was offered to ensure the labor standards reflected in the bill include equal remuneration. This amendment was defeated as well.

The negotiating objective with respect to currency in the underlying bill is weak and does not specify that currency disciplines in an agreement must be enforceable and subject to the same dispute settlement provisions as all other provisions in the agreement. An amendment was offered in committee to strengthen the provision but it was not adopted. Diplomatic efforts to address currency manipulation have been woefully insufficient because they have not been accompanied by any enforcement mechanisms. The TPP agreement includes countries that have a history of manipulating their currencies, and there have been discussions about China joining the agreement in the future. Strong and enforceable currency manipulation disciplines in TPP are necessary to ensure American workers and businesses compete on a level playing field. Without improvement, the negotiating objectives in the bill will not lead to strong and enforceable provisions in our trade agreements. And if the negotiating objectives are not mandatory, the President can continue to pick and choose which ones he or she tries to achieve.

Third, the bill outlines a process by which trade agreements are to be considered in Congress, but this process relegates Congress' role in trade negotiations to that of a rubber stamp. In exchange for giving up its right to amend a trade agreement, Congress receives some assurances that they will be consulted by the President. The details of these consultation requirements, however, are left to the United States Trade Representative in guidelines. In addition, the process does not obligate the President to consult adequately on all important issues before trade negotiations. For example, an amendment was offered in committee that would require the President to consult with Congress on industrial products and automobiles and auto parts before negotiations begin. This amendment would have brought pre-negotiation consultation requirements for those goods in line with agricultural goods. The amendment was defeated. The bill also allows the President to certify that the agreement has made progress in achieving Congress' negotiating objectives. The President certainly will certify that the agreement he or she has negotiated has done so. An amendment was offered in committee that would have required Congress to certify that the negotiating objectives have been met, but it was not adopted.

Lastly, the bill does not adequately address how future countries may join the TPP agreement. An amendment was offered in committee to require the House Ways and Means Committee and the Senate Finance Committee to certify that a potential TPP partner has met the standards of the agreement. The amendment also required both chambers of Congress to vote for that country to join the agreement. The amendment was defeated, and Congress' role in evaluating China's participation in TPP remains unclear.

underlying bill is the first trade promotion authority legislation that Congress has considered in 13 years, and the TPP agreement is the largest agreement the U.S. has ever negotiated. Careful consideration of fast track procedures, the negotiating objectives, and Congress' role in trade authority is needed to ensure TPP and TTIP are high standard agreements that create a level playing field for American businesses and workers. Unfortunately, efforts to strengthen the negotiating objective and expand Congress' role in trade negotiations were not accepted. As a result, the underlying bill will allow for expedited consideration of trade agreements that will further erode the American middle class.

SHERROD BROWN
ROBERT P. CASEY, JR.
DEBBIE STABENOW

X. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In the opinion of the Committee, in order to expedite the business of the Senate, it is necessary to dispense with the requirements of paragraph 12 of rule XXVI of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the bill as reported by the Committee).