

AMENDMENT TO H.R. 1890 OFFERED BY REP. LEVIN

This amendment in the nature of a substitute, among other things, (i) includes specific negotiating instructions on all of the major outstanding issues in the TPP negotiations, (ii) does not provide for expedited consideration unless and until bipartisan groups of House and Senate trade advisors determine that the instructions were followed, (iii) has Congress write the consultation procedures, including what negotiating texts must be shared with Congress and stakeholders, and (iv) includes two useable mechanisms to enable Congress to remove expedited consideration where necessary.

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1890
OFFERED BY MR. LEVIN OF MICHIGAN

Strike all after the enacting clause and insert the following:

1 SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Right Track for the Trans-Pacific Partnership Act of
4 2015”.

5 (b) TABLE OF CONTENTS.—The table of contents for
6 this Act is as follows:

7 SEC. 2. TPP NEGOTIATING INSTRUCTIONS.

8 (a) TPP NEGOTIATING INSTRUCTIONS ON MAJOR
9 OUTSTANDING ISSUES.—The negotiating instructions of
10 the Congress to the President on negotiations with respect
11 to the major outstanding issues of the Trans-Pacific Part-
12 nership (in this Act referred to as the “TPP” or “TPP
13 agreement”) negotiations are the following:

14 (1) CURRENCY MANIPULATION.—Congress’ in-
15 structions to the President regarding currency prac-
16 tices are to establish strong and enforceable rules,
17 consistent with or building upon Article IV of the
18 Articles of Agreement of the International Monetary

1 Fund and related guidelines, requiring each TPP
2 party to avoid manipulating exchange rates to gain,
3 an unfair competitive advantage in international
4 trade over other TPP parties. The rules shall be en-
5 forceable through the same dispute settlement and
6 remedies as other obligations under the TPP agree-
7 ment, provided that a panel finding that a TPP
8 party is engaging in currency manipulation shall
9 have no effect if, not later than 60 days after the
10 panel makes its finding, the Executive Board of the
11 International Monetary Fund disagrees with a panel
12 finding and affirmatively finds that the TPP party
13 is not engaging in currency manipulation.

14 (2) LABOR RIGHTS.—Congress’ instructions to
15 the President with respect to labor provisions are—

16 (A) to ensure that each TPP party—
17 (i) adopts, maintains, and does not
18 waive or otherwise derogate from, meas-
19 ures implementing core labor standards (as
20 defined in section 8), and

21 (ii) does not fail to effectively enforce
22 its labor laws, through a sustained or re-
23 curring course of action or inaction,
24 in a manner affecting trade or investment be-
25 tween the parties;

(B) to strengthen the capacity of the TPP parties to promote respect for core labor standards;

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

(D) to ensure the implementation of the labor obligations in the TPP agreement by—

(i) providing that a union shall not be required to affiliate with any confederation and shall be free to form and affiliate with any vertical or horizontal workers organization, including any confederation, sector-wide, or industry-wide union of its own choosing and that workers in a TPP party shall have the right to freely form and join an autonomous and independent union of their choosing;

(ii) providing that a union engaged in collective bargaining with an employer must demonstrate majority support of that employer's workers, on behalf of whom it is negotiating, prior to registration of any collective bargaining agreement;

(iii) providing that for purposes of labor obligations in the agreement relating to procedural guarantees for labor law enforcement, any administrative, quasi-judicial, judicial or labor tribunals or boards composed of members with direct or indirect interest in matters before them shall not be considered impartial and independent;

(iv) requiring each TPP party to adopt all measures necessary to bring its laws and regulations into compliance with the TPP agreement, and to have adopted any new procedures and institutional changes needed to independently and objectively implement such legal reforms, before the implementing bill is submitted to Congress; and

(v) with respect to any TPP party that must substantially transform its labor regime to comply with the labor obligations in the TPP agreement, establishing from the date of entry into force of the TPP agreement an independent panel of experts to regularly examine and publicly report on

the implementation of the transformational reforms, provide recommendation, and identify concerns relating to the TPP party's compliance with its labor obligations in the agreement based on input from the TPP parties and interested stakeholders and on any other relevant information and reporting. If the independent panel determines that the TPP party is not in compliance with its obligations, the determination shall be treated as an initial report of an arbitral panel under the agreement, and the matter shall be addressed in accordance with the normal procedures laid out for such cases, including through an agreement to eliminate the nonconformity in the first instance or, as a last resort, to suspend benefits under the TPP agreement.

(3) ENVIRONMENT.—Congress' instructions to the President regarding the environment are to obtain commitments from each TPP party to ensure a level of environmental protection in trade and investment at least as great as the level established under the "May 10 Agreement of 2007" (as defined in section 8), such as by—

(A) requiring that each TPP party—

(i) adopts and maintains measures implementing its obligations under the core multilateral environmental agreements (as defined in section 8);

(ii) does not waive or otherwise derogate from, or offer to waive or otherwise derogate, from its statutes or regulations implementing its environmental laws in a manner that weakens or reduces the protections afforded in those laws and in a manner affecting trade or investment between the United States and that TPP party, except as provided in its law and provided not inconsistent with its obligations under core multilateral environmental agreements or other provisions of the trade agreement specifically agreed upon; and

(iii) does not fail to effectively enforce its environmental or labor laws, through a sustained or recurring course of action or inaction, in a manner affecting trade or investment between the United States and that TPP party after entry into force of a trade agreement between those countries;

1 (B) prohibiting trade in illegally harvested
2 goods, including in sub-Federal entities that are
3 known to permit such trade, and shark finning;

4 (C) prohibiting subsidies that promote
5 fishing with respect to overfished species;

6 (D) requiring joint action to address cli-
7 mate change, including through adaptation and
8 mitigation;

9 (E) strengthening the capacity of United
10 States trading partners to protect the environ-
11 ment through the promotion of sustainable de-
12 velopment;

13 (F) reducing or eliminating government
14 practices or policies that unduly threaten sus-
15 tainable development;

16 (G) ensuring that environment obligations
17 are subject to the same dispute settlement and
18 remedies as other obligations under the TPP
19 agreement;

20 (H) requiring each TPP party to operate
21 regional fisheries management organization sys-
22 tems that—

23 (i) regulate marine wild capture fish-
24 ing; and

25 (ii) are designed to—

1 (I) prevent overfishing and over-
2 capacity;

3 (II) reduce bycatch of non-target
4 species and juveniles; and

5 (III) promote the recovery of
6 overfished stocks; and

7 (I) ensuring long-term conservation of ma-
8 rine mammals, marine turtles, and seabirds.

9 (4) INVESTMENT AND INVESTOR-STATE DIS-
10 PUTE SETTLEMENT.—Recognizing that United
11 States law provides a high level of protection for in-
12 vestment, consistent with or greater than the level
13 required by international law, Congress' instructions
14 to the President regarding investment and investor-
15 state dispute settlement are to reduce or eliminate
16 artificial or trade distorting barriers to foreign in-
17 vestment, while ensuring that foreign investors in
18 the United States are not accorded greater sub-
19 stantive rights with respect to investment protections
20 than United States investors in the United States
21 by—

22 (A) freeing the transfer of funds relating
23 to investments, except where a restriction on
24 the transfer of funds is necessary to prevent or
25 mitigate a financial crisis;

(B) further clarifying the “minimum standard of treatment” provision, consistent with the award in *Glamis Gold* (as defined in section 8), by—

(i) explicitly stating that the investor bears the burden of establishing that a state has violated a principle of customary international law regarding the minimum standard of treatment of aliens;

(ii) explicitly stating that customary international law requires an investor to prove a general and consistent practice of states, and that evidence for such practice cannot be based on a past tribunal’s interpretation of the minimum standard of treatment, and that is followed based on a sense of legal obligation (*opinio juris*); and

(iii) explicitly stating that, unless an investor is able to prove otherwise based on the customary international law standard, “arbitrary” conduct by a state or state actions that upset an investor’s expectations do not violate the minimum standard of treatment.

(C) establishing a mechanism whereby the TPP party being sued by an investor and the investor’s home country may agree that a claim submitted to arbitration is not a claim for which an award in favor of the claimant may be granted by the tribunal; and

(D) stating, in the preamble of the TPP agreement, that the TPP agreement does not accord greater substantive rights than domestic investors have under domestic laws where, as in the United States, protection of investor rights under domestic law equal or exceed those set forth in the TPP agreement.

(5) ACCESS TO MEDICINES.—Congress’ instructions to the President regarding trade-related intellectual property and access to medicines are to ensure that the provisions of the TPP agreement respect the Declaration on the TRIPS Agreement and Public Health, adopted by the World Trade Organization at the Fourth Ministerial Conference at Doha, Qatar, on November 14, 2001, and the May 10 Agreement of 2007 (as defined in section 8), which fosters innovation and promotes access to medicines for all.

(6) AUTOMOTIVE MARKET ACCESS.—Congress' instructions to the President regarding the automotive market in Japan (including cars, trucks, and auto parts), and to any other product market that has historically been essentially closed to United States exports, are to maintain United States tariffs on imports of comparable products from that TPP party for a period of time sufficient to ensure that the TPP party has opened its market to United States exports of the relevant product. In the case of the Japanese automotive market, Congress' instructions to the President are to obtain an agreement that—

(A) with respect to tariffs, either—

- (i) phases out United States tariffs as soon as, but not before, Japan has established a consistent record of openness to imports, in line with the import penetration level of other industrialized nations; or
 - (ii) reduces United States tariffs not before 25 years, and eliminates United States tariffs not before 30 years, after the TPP agreement enters into force.
- (B) eliminates unjustifiable nontariff barriers that have impeded the ability of United

States automakers to establish presences, operate, import, or otherwise compete effectively in Japan; and

(C) establishes a dispute settlement mechanism that—

(i) is applicable specifically to United States-Japan automotive trade; and

(ii) permits the United States, where Japan has been found to have acted inconsistently with its obligations under the TPP agreement, to suspend benefits accruing to Japan by delaying the reduction of United States tariffs, if United States tariffs have not yet been reduced, and by re-imposing tariffs to pre-reduction levels, if United States tariffs have started being or have already been reduced.

(7) RULES OF ORIGIN.—Congress' instructions to the President regarding rules of origin are to ensure that, to the maximum extent feasible, the benefits of the TPP agreement accrue to the TPP parties, particularly with respect to goods produced in the United States and goods that incorporate materials produced in the United States. In the case of automotive products, the President is instructed to

1 obtain a rule of origin at least as stringent as the
2 rule in the North American Free Trade Agreement.

3 (8) TOBACCO CONTROLS.—Congress' instruc-
4 tions to the President regarding public health meas-
5 ures relating to tobacco is to clarify and ensure that
6 nondiscriminatory public health measures relating to
7 tobacco should not be challenged within the mecha-
8 nisms of the TPP agreement as being inconsistent
9 with the obligations in the TPP agreement.

10 (9) STATE-OWNED AND STATE-CONTROLLED
11 ENTERPRISES.—Congress' instructions to the Presi-
12 dent regarding competition by state-owned and
13 state-controlled enterprises are to seek commitments
14 that—

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

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

21 (C) apply broadly to all enterprises that
22 are controlled by governments, including where
23 the government owns a controlling interest but
24 less than a majority of the shares in the enter-
25 prise, and

1 (D) apply to virtually all state-owned or
2 controlled enterprises with exclusions narrowly
3 tailored to address specific public policy objec-
4 tives,

5 in particular through disciplines that eliminate or
6 prevent discrimination and market-distorting sub-
7 sidies and that promote transparency.

8 (10) AGRICULTURE MARKER ACCESS.—Con-
9 gress' instructions to the President regarding agri-
10 culture are to—

11 (A) eliminate, by a date certain, tariffs and
12 other charges on United States exports of vir-
13 tually all bulk, specialty crop, and value-added
14 commodities, by tariff line; and

15 (B) in the exceptional circumstances where
16 an agricultural product is not subject to full
17 tariff elimination, obtain significant new market
18 access opportunities for United States export-
19 ers, through tariff-rate quotas and other mecha-
20 nisms, substantially equivalent to the competi-
21 tive opportunities afforded TPP party exporters
22 in United States markets.

23 (11) FOOD SAFETY MEASURES AND OTHER
24 MEASURES AFFECTING AGRICULTURAL PRODUCTS.—
25 Congress' instructions to the President regarding

disciplines on food safety measures and other measures affecting agricultural products are to obtain competitive opportunities for United States exports of agricultural commodities in the markets of TPP parties substantially equivalent to the competitive opportunities afforded foreign exporters in United States markets and to achieve fairer and more open conditions of trade in bulk, specialty crop, and value added commodities by securing more open and equitable market access through robust rules on sanitary and phytosanitary measures that—

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

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

(C) require that measures are transparently developed and implemented, are based on risk assessments that take into account relevant international guidelines and scientific

data, and are not more restrictive on trade than necessary to meet the intended purpose,

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

(E) eliminate and prevent the undermining of market access for United States products through improper use of a country's system for protecting or recognizing geographical indications,

while preserving the right of governments to put in place legitimate measures to protect human, animal, or plant life or health, and reaffirming the rights and obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (referred to in section 101(d)(3) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(3))).

(12) HUMAN RIGHTS.—Congress' instruction to the President regarding human rights is, in determining whether to conclude the TPP negotiations with each party, to consider whether the government of that TPP party consistently demonstrates respect for "internationally recognized human rights" (as defined in section 8) and is taking steps to address areas of concern.

1 (b) INSTRUCTIONS WITH RESPECT TO OTHER
 2 ISSUES.—Recognizing the current status of the TPP ne-
 3 gotiations, Congress' instruction to the President with re-
 4 spect to the negotiations on subjects other than those de-
 5 scribed above is to continue to pursue the objectives
 6 United States negotiators have had in these negotiations,
 7 based on views expressed by stakeholders and Members
 8 of Congress.

9 **SEC. 3. TPP ADVISORY GROUPS.**

10 (a) SELECTION.—

11 (1) IN GENERAL.—Not later than 14 days after
 12 the date of the enactment of this Act, the Speaker
 13 of the House of Representatives and the President
 14 pro tempore of the Senate shall each establish a
 15 TPP Advisory Group in accordance with the require-
 16 ments of this section. The TPP Advisory Groups
 17 shall provide advice on the development of trade pol-
 18 icy and priorities for the implementation thereof.

19 (2) HOUSE MEMBERSHIP.—The House TPP
 20 Advisory Group shall be comprised of the following
 21 Members of the House of Representatives:

22 (A) The chairman and ranking minority
 23 member of the Committee on Ways and Means
 24 and 10 additional Members (not more than 5 of
 25 whom are members of the same political party),

1 selected by the chairman and ranking minority
 2 member of such Committee.

3 (B) Ten other members of the House of
 4 Representatives (not more than 5 of whom are
 5 members of the same political party), selected
 6 by the Speaker and minority leader of the
 7 House of Representatives.

8 (3) SENATE MEMBERSHIP.—The Senate TPP
 9 Advisory Group shall be comprised of the following
 10 Members of the Senate:

11 (A) The chairman and ranking minority
 12 member of the Committee on Finance, and 4
 13 additional Members of the Senate (not more
 14 than 2 of whom are members of the same polit-
 15 ical party), selected by the chairman and rank-
 16 ing minority member of such Committee.

17 (B) Four other Members of the Senate
 18 (not more than 2 of whom are members of the
 19 same political party), selected by the President
 20 pro tempore and the minority leader of the Sen-
 21 ate.

22 (4) ACCREDITATION.—Each member of the
 23 House and Senate TPP Advisory Groups shall be
 24 accredited by the United States Trade Representa-
 25 tive on behalf of the President as an official adviser

1 to the United States delegation in negotiations for
2 any trade agreement to which this title applies.

3 (b) BRIEFING.—The United States Trade Represent-
4 ative shall keep each member of the House and Senate
5 TPP Advisory Groups currently informed with respect to
6 progress on negotiating instructions under section 2, the
7 status of TPP negotiations, and the nature of any changes
8 in domestic law or the administration thereof which may
9 be recommended to Congress to carry out TPP agreement
10 or any requirement of, amendment to, or recommendation
11 under, the TPP agreement.

12 SEC. 4. APPLICATION OF TRADE AUTHORITIES PROCE-

13 DURES TO TPP.

14 (a) IN GENERAL.—The provisions of section 151 of
15 the Trade Act of 1974 (in this Act referred to as “trade
16 authorities procedures”) shall apply to a bill of either
17 House of Congress which contains provisions described in
18 subsection (b) to the same extent as such section 151 ap-
19 plies to implementing bills under that section. A bill to
20 which this section applies shall hereafter in this Act be
21 referred to as an “implementing bill”.

22 (b) PROVISIONS DESCRIBED.—The provisions de-
23 scribed in subsection (a) are—

24 (1) a provision approving a trade agreement
25 with Australia, Brunei, Canada, Chile, Japan, Ma-

1 laysia, Mexico, New Zealand, Peru, Singapore, and
2 Vietnam (in this Act referred to as the “Trans-Pa-
3 cific Partnership” or “TPP agreement”) and imple-
4 menting the TPP agreement (in this Act referred to
5 as an “implementing bill”); and

6 (2) if changes in existing laws or new statutory
7 authority are required to implement the TPP agree-
8 ment, provisions necessary or appropriate to imple-
9 ment the TPP agreement, either repealing or
10 amending existing laws or providing new statutory
11 authority.

12 (c) SATISFACTION OF OTHER REQUIREMENTS IN
13 THIS ACT.—Trade authorities procedures shall only apply
14 to an implementing bill if—

15 (1) the President has satisfied each consulta-
16 tion provision contained in this Act;

17 (2) disapproval resolutions, as described in sec-
18 tion 5(b)(1), are not agreed to as provided in section
19 5(b)(1);

20 (3) neither the Committee on Finance of the
21 Senate nor the Committee on Ways and Means of
22 the House of Representatives agrees to a disapproval
23 resolution, as provided in section 5(b)(2); and

24 (4) each TPP Advisory Group concurs, as de-
25 scribed in section 6(d), with the President’s asser-

tion that the TPP agreement achieves the negotiating instructions under section 2 and that the President has adequately consulted with Congress.

(d) ACCESSION TO TPP.—Trade authorities procedures shall not apply to a bill of either House of Congress which provides for a foreign country or instrumentality to accede to the TPP agreement, unless—

(1) the President provides Congress with 90 days notice of the intent to negotiate with the foreign country or instrumentality to accede to the TPP agreement;

(2) a majority of the members of each TPP Advisory Group approves of negotiating with that foreign country or instrumentality within that 90 day consultation period; and

(3) the President separately satisfies every requirement in this Act with respect to the consultations of that foreign country or instrumentality during negotiations regarding accession to the TPP agreement.

SEC. 5. CONGRESSIONAL CONSULTATION DURING TPP NEGOTIATIONS.

(a) CONSULTATION WITH CONGRESS BEFORE ENTERED INTO A TPP AGREEMENT.—

(1) CONSULTATION.—Before entering into a TPP agreement, the President shall consult, on a systemic and regular basis, with—

(A) the House and Senate TPP Advisory Groups;

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

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

(D) any other Member of Congress that requests consultations.

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

(A) the nature of the TPP agreement;

(B) how and to what extent the TPP agreement will achieve the applicable purposes, policies, priorities, and negotiating instructions under this Act, as well as any other issue dealt with in the TPP agreement;

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

(3) ACCESS TO TEXT OF NEGOTIATING PROPOSALS.—

(A) IN GENERAL.—Consistent with effective negotiations, the United States Trade Representative shall encourage maximum accessibility to trade texts, the proposals made by the United States and other trading partners. The policy is to make negotiations as open as possible and to identify major issues that are the subject of negotiations.

(B) ACCESS TO SPECIFIC TEXTS.—The President shall, upon request, make available to each Member of Congress the following:

(i) A copy of the text of the negotiating proposals of the United States with respect to the TPP agreement.

(ii) A copy of the text of the negotiating proposals of each foreign country with respect to the TPP agreement.

(iii) A copy of consolidated negotiating texts, which shall indicate which country is advocating for each provision.

(C) CONGRESSIONAL STAFF.—Each Member of Congress may designate one staff member to review the texts described in clauses (i), (ii), and (iii) of subparagraph (A) if such staff member has an appropriate security clearance, and the President shall, upon request of a Member, promptly make available to such staff the texts described in clauses (i), (ii), and (iii) of subparagraph (A). The Member of Congress does not need to be present for his or her designated staff member to review these texts. In no case shall access to information described in clauses (i), (ii), and (iii) of subparagraph (A) by staff require a security clearance above the level under which the information is classified.

(D) TRADE ADVISORY COMMITTEE MEMBERS.—The President shall promptly make available to each member of a trade advisory committee, with an appropriate security clearance, as established under section 135 of the Trade Act of 1974, as amended (19 U.S.C. 2155), the text of the negotiation proposals under clauses (i), (ii), and (iii) of subparagraph (A).

(B) TIMING OF ACCESS TO TEXTS.—Texts described in clauses (i), (ii), and (iii) of subparagraph (A) shall be made available to Members of Congress and their staff no later than the date on which such information is made available to the government of a foreign country that is a party to the TPP negotiations.

(4) PUBLIC SUMMARIES OF TPP NEGOTIATION.—Not later than 30 calendar days after the date of the enactment of this Act, the United States Representative shall publish, on a publicly available Internet website, detailed summaries for each chapter being negotiated under the TPP. Where appropriate, the summaries shall explain how the negotiations will achieve the negotiating instructions under section 2. The United States Trade Representative shall update these detailed summaries regularly, particularly before and after negotiating rounds.

(5) TECHNICAL ASSISTANCE.—The United States International Trade Commission shall, upon request, provide technical assistance to each Member of Congress with respect to analyzing the potential impacts of the TPP agreement.

(6) ACCREDITATION.—The United States Trade Representative, acting on behalf of the President,

1 shall accredit a Member of Congress, upon request,
2 as an official adviser to the TPP negotiations.

3 (b) DISAPPROVAL RESOLUTIONS WITH RESPECT TO
4 ONGOING TPP NEGOTIATIONS.—

5 (1) BIENNIAL DISAPPROVAL RESOLUTION; DIS-
6 CHARGE BY SIZEABLE MINORITY.—

7 (A) IN GENERAL.—The trade authorities
8 procedures shall not apply to any implementing
9 bill submitted with respect to the TPP agree-
10 ment if, during the 120-day period beginning
11 on the date that one House of Congress agrees
12 to a disapproval resolution described in sub-
13 paragraph (B) disapproving the TPP negotia-
14 tions, the other House separately agrees to a
15 disapproval resolution described in paragraph
16 (B) disapproving of those negotiations.

17 (B) DISAPPROVAL RESOLUTION.—For pur-
18 poses of this paragraph, the term “disapproval
19 resolution” means a resolution, the sole matter
20 after the resolving clause of which is as follows:
21 “That the _____ disapproves the TPP
22 negotiations and, therefore, the trade authori-
23 ties procedures not apply to any implementing
24 bill submitted with respect to the TPP.”, with

the blank space being filled with the name of the resolving House of Congress.

(C) PROCEDURES FOR CONSIDERING RESOLUTIONS—

(i) Any disapproval resolution to which paragraph (1) applies—

(I) in the House of Representatives shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules, and may not be amended by either Committee; and

(II) in the Senate shall be referred to the Committee on Finance.

(ii) The provisions of section 152(c), (d), and (e) of the Trade Act of 1974 (19 U.S.C. 2192 (c), (d), and (e)) (relating to the consideration of certain resolutions in the House and Senate) apply to any disapproval resolution to which paragraph (1) or (2) applies if—

(I) there are at least 145 cosponsors of the resolution, in the case of a resolution of the House of Representatives, and at least 34 co-spon-

sors of the resolution, in the case of a resolution of the Senate; and

(II) no resolution that meets the requirements of clause (I) has previously been considered under such provisions of section 152 of the Trade Act of 1974 in that House of Congress during that Congress.

(iii) It is not in order for—

(I) the Senate to consider any joint resolution unless it has been reported by the Committee on Finance or the committee has been discharged pursuant to subparagraph (C)(ii); or

(II) the House of Representatives to consider any joint resolution unless it has been reported by the Committee on Ways and Means or the committee has been discharged pursuant to subparagraph (C)(ii).

(D) COMPUTATION OF CERTAIN TIME PERIODS.—Each period of time referred to in subparagraph (A) shall be computed without regard to—

1 (i) the days on which either House of
 2 Congress is not in session because of an
 3 adjournment of more than 3 days to a day
 4 certain or an adjournment of the Congress
 5 sine die; and
 6 (ii) any Saturday and Sunday, not ex-
 7 cluded under clause (i), when either House
 8 of Congress is not in session.

9 (2) COMMITTEE DISAPPROVAL RESOLUTION.—
 10 The trade authorities procedures shall not apply to
 11 an implementing bill submitted with respect to the
 12 TPP agreement if the Committee on Finance of the
 13 Senate or the Committee on Ways and Means of the
 14 House of Representatives passes a disapproval reso-
 15 lution regarding the TPP negotiations before the
 16 close of the 60-day period which begins on the date
 17 notice is provided under section 6(a)(1)(A)(iii).

18 **SEC. 6. CONGRESSIONAL CONSIDERATION AND IMPLEMEN-**

19 **TATION OF TPP.**

20 (a) IN GENERAL.—

21 (1) NOTIFICATION AND SUBMISSION.—The
 22 TPP agreement shall enter into force with respect to
 23 the United States if (and only if)—
 24 (A) the President—

1 (i) at least 90 calendar days before
 2 the day on which the President enters into
 3 a TPP agreement, notifies the House of
 4 Representatives and the Senate of the
 5 President's intention to enter into the TPP
 6 agreement, and promptly thereafter pub-
 7 lishes notice of such intention in the Fed-
 8 eral Register;

9 (ii) at least 60 days before the day on
 10 which the President enters into the TPP
 11 agreement, the TPP agreement is pub-
 12 lished on a publicly available Internet
 13 website of the Office of the United States
 14 Trade Representative; and

15 (iii) at least 60 days before the date
 16 notice is provided under clause (i), pro-
 17 vides written notice of such negotiations to
 18 the Committee on Finance of the Senate
 19 and the Committee on Ways and Means of
 20 the House of Representatives;

21 (B) the advisory committee report required
 22 under section 135(e)(1) of the Trade Act of
 23 1974 is provided to the President, the Con-
 24 gress, and the United States Trade Representa-
 25 tive not later than 30 days after the date on

which the President notifies the Congress under subparagraph (A)(i) of the President's intention to enter into the TPP agreement;

(C) not later than 60 days after entering into the TPP agreement, the President submits to the Congress a description of those changes to existing laws that the President considers would be required in order to bring the United States into compliance with the TPP agreement;

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

(i) a draft of an implementing bill described in section 4(b);

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

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

(E) the implementing bill is enacted into law.

(2) SUPPORTING INFORMATION.—The supporting information required under paragraph (1)(D)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law, including any changes to United States statutes, regulations, or practices concerning food safety; and

(B) a statement—

(i) asserting that the TPP agreement achieves the applicable purposes, policies, priorities, and negotiating instructions under this Act; and

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

(I) how and to what extent the TPP agreement achieves the applicable purposes, policies, and negotiating instructions referred to in clause (i);

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

(III) how, and to what extent, the TPP agreement promotes production and employment in the United

1 States, reduces income inequality, and
2 results in broadly shared prosperity;
3 and

4 (IV) how the TPP agreement
5 serves the interests of United States
6 commerce.

7 (3) RECIPROCAL BENEFITS.—In order to en-
8 sure that a foreign country that is not a party to the
9 TPP agreement does not receive benefits under the
10 TPP agreement unless the country is also subject to
11 the obligations under the TPP agreement, the imple-
12 menting bill submitted with respect to the TPP
13 agreement shall provide that the benefits and obliga-
14 tions under the TPP agreement apply only to the
15 parties to the TPP agreement, if such application is
16 consistent with the terms of the TPP agreement.
17 The implementing bill may also provide that the
18 benefits and obligations under the TPP agreement
19 do not apply uniformly to all parties to the TPP
20 agreement, if such application is consistent with the
21 terms of the TPP agreement.
22 (4) DISCLOSURE OF COMMITMENTS.—Any
23 agreement or other understanding with a foreign
24 government or governments (whether oral or in writ-
25 ing) that relates to the TPP agreement with respect

1 to which the Congress enacts an implementing bill
2 under trade authorities procedures shall be disclosed
3 to the Congress. Any such agreement or under-
4 standing that is not disclosed to the Congress before
5 an implementing bill with respect to the TPP agree-
6 ment is introduced in either House of Congress shall
7 not be considered to be part of the TPP agreement
8 approved by the Congress and shall have no force
9 and effect under United States law or in any dispute
10 settlement body.

11 (b) POST-NEGOTIATION REPORT.—

12 (1) IN GENERAL.—The President, at least 90
13 calendar days before the day on which the President
14 enters into the TPP agreement, shall provide the
15 United States International Trade Commission (re-
16 ferred to in this subsection as “the Commission”)
17 with the details of the TPP agreement as it exists
18 at that time and request the Commission to prepare
19 and submit an assessment of the TPP agreement as
20 described in paragraph (2). Between the time the
21 President makes the request under this paragraph
22 and the time the Commission submits the assess-
23 ment, the President shall keep the Commission cur-
24 rent with respect to the details of the TPP agree-
25 ment.

(2) REPORT.—Not later than 150 calendar days after the day on which the President enters into the TPP agreement, the President, working with the Commission, shall submit to the Congress a report regarding—

(A) the likely economic impacts of the TPP agreement, with respect to both tariff and nontariff barriers, including—

(i) specific market opportunities with regard to United States exports to each party to the TPP agreement and what imports from such country are expected to increase as a result of the TPP agreement;

(ii) the impact on employment, the median wage, and income disparities in the United States, based on an assumption that the United States is operating at less than full employment;

(iii) the impact on the bilateral United States trade imbalance with TPP parties and the overall United States trade imbalance; and

(iv) the impact on United States energy security and United States energy prices;

(B) the likely impact on United States Federal, State, and local regulation of labor, environmental and natural resources protection, food and drug safety, regulation of financial markets, government procurement, and consumer protections;

(C) the economic, legal, and institutional framework of each TPP party, including the transparency of each TPP party's legal regime;

(D) an assessment of each TPP party's ability to fully implement the commitments of the TPP agreement with the United States. In providing such information, the President shall submit specific information on the compliance of each TPP party to existing trade agreements to which it is a party and what enforcement actions, if any, have been taken by the United States or other countries to achieve compliance;

(E) an assessment of the likely environmental impact of the TPP agreement, consistent with Executive Order 13141 of November 16, 1999, and its relevant guidelines; and

(F) an explanation, based on empirical evidence, of the rule of origin for automotive products, textile and apparel products, and other

1 products where the rule of origin plays an im-
 2 portant role in ensuring that the benefits of the
 3 TPP agreement flow to the TPP Parties.

4 (3) REVIEW OF EMPIRICAL LITERATURE.—In
 5 preparing the assessment, the Commission shall re-
 6 view available economic assessments regarding the
 7 TPP agreement, including literature regarding any
 8 substantially equivalent proposed agreement, and
 9 shall provide in its assessment a description of the
 10 analyses used and conclusions drawn in such lit-
 11 erature, and a discussion of areas of consensus and
 12 divergence between the various analyses and conclu-
 13 sions, including those of the Commission regarding
 14 the TPP agreement.

15 (c) COMMITTEE VIEWS, REPORT AND RECOMMENDA-
 16 TION.—

17 (1) IN GENERAL.—Not later than 30 calendar
 18 days after receipt of a report under subsection (b),
 19 each committee of the House of Representatives and
 20 the Senate, and each joint committee of Congress,
 21 which has jurisdiction over legislation involving sub-
 22 ject matters which would be affected by the TPP
 23 agreement shall—

24 (A) prepare a report evaluating the TPP
 25 agreement with respect to the issues in that

1 committee's jurisdiction, including whether the
 2 relevant negotiating instructions under section
 3 2 have been achieved;

4 (B) for a committee in the Senate, submit
 5 the report to the Committee on Finance; and

6 (C) for a committee in the House of Rep-
 7 resentatives, submit the report to the Com-
 8 mittee on Ways and Means.

9 (2) REPORT AND RECOMMENDATION.—Not
 10 later than 30 calendar days after receipt of the views
 11 of all such congressional committees—

12 (A) the Committee on Finance of the Sen-
 13 ate shall submit to the Senate TPP Advisory
 14 Group a report containing—

15 (i) the views of the committees of the
 16 Senate; and

17 (ii) a recommendation to approve or
 18 disapprove of applying trade authorities
 19 procedures to the TPP agreement; and

20 (B) the Committee on Ways and Means of
 21 the House of Representatives shall submit to
 22 the House TPP Advisory Group a report con-
 23 taining—

24 (i) the views of the committees of the
 25 House of Representatives; and

1 (ii) a recommendation to approve or
2 disapprove of applying trade authorities
3 procedures to the TPP agreement.

4 (d) TPP ADVISORY GROUPS APPROVAL RESOLU-
5 TIONS TO APPLY TRADE AUTHORITIES PROCEDURES TO
6 TPP.—

7 (1) IN GENERAL.—Not later than 30 calendar
8 days after receipt of the reports in subsection (c),
9 each TPP Advisory Group shall vote as to whether
10 it concurs—

11 (A) with the President's statement in sub-
12 section (a)(2)(B)(i) that the TPP agreement
13 achieves the purposes, priorities, and negoti-
14 ating instructions under section 2; and

15 (B) that the President has adequately con-
16 sulted with Congress.

17 (2) The trade authorities procedures shall apply
18 to a TPP agreement implementing bill only if a ma-
19 jority of the House TPP Advisory Group and a ma-
20 jority of the Senate TPP Advisory Group concurs.

21 (3) Each TPP Advisory Group may recommend
22 provisions to be included in the implementing bill
23 that are “necessary or appropriate” and may issue
24 a report explaining its decision, including dissenting
25 views. These provisions may include, for example—

1 (A) legislation to impose a WTO-consistent
2 import fee or other measure to permanently
3 fund food safety inspections of imports; and

4 (B) legislation addressing issues that di-
5 rectly relate to TPP parties, such as human
6 rights.

7 (e) RULES OF HOUSE OF REPRESENTATIVES AND
8 SENATE.—Subsection (d) of this section, section 4, and
9 section 5(b) are enacted by the Congress—

10 (1) as an exercise of the rulemaking power of
11 the House of Representatives and the Senate, re-
12 spectively, and as such are deemed a part of the
13 rules of each House, respectively, and such proce-
14 dures supersede other rules only to the extent that
15 they are inconsistent with such other rules; and

16 (2) with the full recognition of the constitu-
17 tional right of either House to change the rules (so
18 far as relating to the procedures of that House) at
19 any time, in the same manner, and to the same ex-
20 tent as any other rule of that House.

21 SEC. 7. ADDITIONAL TPP IMPLEMENTATION AND ENFORCE-

22 MENT REQUIREMENTS.

23 (a) IN GENERAL.—At the time the President submits
24 to the Congress the final text of the TPP agreement pur-
25 suant to section 6(a)(1)(D), the President shall also sub-

1 mit a plan for implementing and enforcing the TPP agree-
 2 ment. The implementation and enforcement plan shall in-
 3 clude the following:

4 (1) BORDER PERSONNEL REQUIREMENTS.—A
 5 description of additional personnel required at bor-
 6 der entry points, including a list of additional cus-
 7 toms and agricultural inspectors.

8 (2) AGENCY STAFFING REQUIREMENTS.—A de-
 9 scription of additional personnel required by Federal
 10 agencies responsible for monitoring and imple-
 11 menting the TPP agreement, including personnel re-
 12 quired by the Office of the United States Trade
 13 Representative, the Department of Commerce, the
 14 Department of Agriculture (including additional per-
 15 sonnel required to implement sanitary and
 16 phytosanitary measures in order to obtain market
 17 access for United States exports), the Department of
 18 the Treasury, the Department of Labor, and such
 19 other agencies as may be necessary.

20 (3) CUSTOMS INFRASTRUCTURE REQUIRE-
 21 MENTS.—A description of the additional equipment
 22 and facilities needed by U.S. Customs and Border
 23 Protection.

24 (4) IMPACT ON STATE AND LOCAL GOVERN-
 25 MENTS.—A description of the impact the TPP

1 agreement will have on State and local governments
 2 as a result of increases in trade.

3 (5) COST ANALYSIS.—An analysis of the costs
 4 associated with each of the items listed in para-
 5 graphs (1) through (4).

6 (b) BUDGET SUBMISSION.—The President shall in-
 7 clude a request for the resources necessary to support the
 8 plan described in subsection (a) in the first budget that
 9 the President submits to the Congress after the submis-
 10 sion of the plan.

SEC. 8. DEFINITIONS.

12 (1) CORE LABOR STANDARDS.—The term “core
 13 labor standards” means—

14 (A) freedom of association;

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

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

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

22 (E) the elimination of discrimination in re-
 23 spect of employment and occupation.

(2) CORE MULTILATERAL ENVIRONMENTAL AGREEMENTS.—The term “core multilateral environmental agreements” means the following:

(A) The Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington, March 3, 1973, as amended.

(B) The Montreal Protocol on Substances that Deplete the Ozone Layer, done at Montreal, September 16, 1987, as adjusted and amended.

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

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

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

(F) The International Convention for the Regulation of Whaling, done at Washington, December 2, 1946.

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

(3) MAY 10 AGREEMENT OF 2007.—The term “May 10 Agreement of 2007” means the Congressional-Executive accord, described in the Report of the Committee on Ways and Means on the United States-Peru Free Trade Promotion Agreement Implementation Act, Report 110–421 (November 5, 2007), which led to several changes to U.S. trade policy as reflected in modifications made to free trade agreements with Peru, Colombia, Panama, and South Korea, concerning provisions relating to labor, environment, access to medicines, investment, government procurement and essential security.

(4) GLAMIS GOLD.—The term “Glamis Gold” refers to the investor-state dispute settlement case under the North American Free Trade Agreement referred to as Glamis Gold, Ltd. v. United States (award dispatched to parties on June 8, 2009).

(5) INTERNATIONALLY RECOGNIZED HUMAN RIGHTS.—The term “internationally recognized human rights” means those rights reflected in the

- 1 United Nations Universal Declaration of Human
- 2 Rights, done at Paris, December 10, 1948.



