

AMENDMENT TO SENATE AMENDMENT TO H.R.

1314

OFFERED BY MR. LEVIN OF MICHIGAN

Strike title I and insert the following:

1 **TITLE I—RIGHT TRACK FOR THE**
2 **TRANS-PACIFIC PARTNERSHIP**

3 **SEC. 101. SHORT TITLE.**

4 This title may be cited as the “Right Track for the
5 Trans-Pacific Partnership Act of 2015”.

6 **SEC. 102. TPP NEGOTIATING INSTRUCTIONS.**

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

13 (1) CURRENCY MANIPULATION.—Congress’ in-
14 structions to the President regarding currency prac-
15 tices are to establish strong and enforceable rules,
16 consistent with or building upon Article IV of the
17 Articles of Agreement of the International Monetary
18 Fund and related guidelines, requiring each TPP
19 party to avoid manipulating exchange rates to gain

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

12 (2) LABOR RIGHTS.—Congress' instructions to
13 the President with respect to labor provisions are—

14 (A) to ensure that each TPP party—

15 (i) adopts, maintains, and does not
16 waive or otherwise derogate from, meas-
17 ures implementing core labor standards (as
18 defined in section 108), and

19 (ii) does not fail to effectively enforce
20 its labor laws, through a sustained or re-
21 curring course of action or inaction,

22 in a manner affecting trade or investment be-
23 tween the parties;

1 (B) to strengthen the capacity of the TPP
2 parties to promote respect for core labor stand-
3 ards;

4 (C) to ensure that the labor obligations are
5 subject to the same dispute settlement and rem-
6 edies as other obligations under the TPP agree-
7 ment; and

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

10 (i) providing that a union shall not be
11 required to affiliate with any confederation
12 and shall be free to form and affiliate with
13 any vertical or horizontal workers organi-
14 zation, including any confederation, sector-
15 wide, or industry-wide union of its own
16 choosing and that workers in a TPP party
17 shall have the right to freely form and join
18 an autonomous and independent union of
19 their choosing;

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

1 (iii) providing that for purposes of
2 labor obligations in the agreement relating
3 to procedural guarantees for labor law en-
4 forcement, any administrative, quasi-judi-
5 cial, judicial or labor tribunals or boards
6 composed of members with direct or indi-
7 rect interest in matters before them shall
8 not be considered impartial and inde-
9 pendent;

10 (iv) requiring each TPP party to
11 adopt all measures necessary to bring its
12 laws and regulations into compliance with
13 the TPP agreement, and to have adopted
14 any new procedures and institutional
15 changes needed to independently and ob-
16 jectively implement such legal reforms, be-
17 fore the implementing bill is submitted to
18 Congress; and

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

1 the implementation of the transformational
2 reforms, provide recommendation, and
3 identify concerns relating to the TPP par-
4 ty's compliance with its labor obligations in
5 the agreement based on input from the
6 TPP parties and interested stakeholders
7 and on any other relevant information and
8 reporting. If the independent panel deter-
9 mines that the TPP party is not in compli-
10 ance with its obligations, the determination
11 shall be treated as an initial report of an
12 arbitral panel under the agreement, and
13 the matter shall be addressed in accord-
14 ance with the normal procedures laid out
15 for such cases, including through an agree-
16 ment to eliminate the nonconformity in the
17 first instance or, as a last resort, to sus-
18 pend benefits under the TPP agreement.

19 (3) ENVIRONMENT.—Congress' instructions to
20 the President regarding the environment are to ob-
21 tain commitments from each TPP party to ensure a
22 level of environmental protection in trade and invest-
23 ment at least as great as the level established under
24 the “May 10 Agreement of 2007” (as defined in sec-
25 tion 108), such as by—

1 (A) requiring that each TPP party—

2 (i) adopts and maintains measures
3 implementing its obligations under the core
4 multilateral environmental agreements (as
5 defined in section 108);

6 (ii) does not waive or otherwise dero-
7 gate from, or offer to waive or otherwise
8 derogate, from its statutes or regulations
9 implementing its environmental laws in a
10 manner that weakens or reduces the pro-
11 tections afforded in those laws and in a
12 manner affecting trade or investment be-
13 tween the United States and that TPP
14 party, except as provided in its law and
15 provided not inconsistent with its obliga-
16 tions under core multilateral environmental
17 agreements or other provisions of the trade
18 agreement specifically agreed upon; and

19 (iii) does not fail to effectively enforce
20 its environmental or labor laws, through a
21 sustained or recurring course of action or
22 inaction, in a manner affecting trade or in-
23 vestment between the United States and
24 that TPP party after entry into force of a
25 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 nontarget
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;

1 (B) further clarifying the “minimum
2 standard of treatment” provision, consistent
3 with the award in Glamis Gold (as defined in
4 section 108), by—

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

10 (ii) explicitly stating that customary
11 international law requires an investor to
12 prove a general and consistent practice of
13 states, and that evidence for such practice
14 cannot be based on a past tribunal’s inter-
15 pretation of the minimum standard of
16 treatment, and that is followed based on a
17 sense of legal obligation (*opinio juris*); and

18 (iii) explicitly stating that, unless an
19 investor is able to prove otherwise based on
20 the customary international law standard,
21 “arbitrary” conduct by a state or state ac-
22 tions that upset an investor’s expectations
23 do not violate the minimum standard of
24 treatment;

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

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

14 (5) ACCESS TO MEDICINES.—Congress' instruc-
15 tions to the President regarding trade-related intel-
16 lectual property and access to medicines are to en-
17 sure that the provisions of the TPP agreement re-
18 spect the Declaration on the TRIPS Agreement and
19 Public Health, adopted by the World Trade Organi-
20 zation at the Fourth Ministerial Conference at
21 Doha, Qatar, on November 14, 2001, and the May
22 10 Agreement of 2007 (as defined in section 108),
23 which fosters innovation and promotes access to
24 medicines for all.

1 (6) AUTOMOTIVE MARKET ACCESS.—Congress’
2 instructions to the President regarding the auto-
3 motive market in Japan (including cars, trucks, and
4 auto parts), and to any other product market that
5 has historically been essentially closed to United
6 States exports, are to maintain United States tariffs
7 on imports of comparable products from that TPP
8 party for a period of time sufficient to ensure that
9 the TPP party has opened its market to United
10 States exports of the relevant product. In the case
11 of the Japanese automotive market, Congress’ in-
12 structions to the President are to obtain an agree-
13 ment that—

14 (A) with respect to tariffs, either—

15 (i) phases out United States tariffs as
16 soon as, but not before, Japan has estab-
17 lished a consistent record of openness to
18 imports, in line with the import penetra-
19 tion level of other industrialized nations; or
20 (ii) reduces United States tariffs not
21 before 25 years, and eliminates United
22 States tariffs not before 30 years, after the
23 TPP agreement enters into force.

24 (B) eliminates unjustifiable nontariff bar-
25 riers that have impeded the ability of United

1 States automakers to establish presences, oper-
2 ate, import, or otherwise compete effectively in
3 Japan; and

4 (C) establishes a dispute settlement mecha-
5 nism that—

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

8 (ii) permits the United States, where
9 Japan has been found to have acted incon-
10 sistent with its obligations under the
11 TPP agreement, to suspend benefits accru-
12 ing to Japan by delaying the reduction of
13 United States tariffs, if United States tar-
14iffs have not yet been reduced, and by re-
15 imposing tariffs to pre-reduction levels, if
16 United States tariffs have started being or
17 have already been reduced.

18 (7) RULES OF ORIGIN.—Congress' instructions
19 to the President regarding rules of origin are to en-
20 sure that, to the maximum extent feasible, the bene-
21 fits of the TPP agreement accrue to the TPP par-
22 ties, particularly with respect to goods produced in
23 the United States and goods that incorporate mate-
24 rials produced in the United States. In the case of
25 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 MARKET 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

1 disciplines on food safety measures and other meas-
2 ures affecting agricultural products are to obtain
3 competitive opportunities for United States exports
4 of agricultural commodities in the markets of TPP
5 parties substantially equivalent to the competitive
6 opportunities afforded foreign exporters in United
7 States markets and to achieve fairer and more open
8 conditions of trade in bulk, specialty crop, and value
9 added commodities by securing more open and equi-
10 table market access through robust rules on sanitary
11 and phytosanitary measures that—

12 (A) encourage the adoption of international
13 standards and require a science-based justifica-
14 tion be provided for a sanitary or phytosanitary
15 measure if the measure is more restrictive than
16 the applicable international standard,

17 (B) improve regulatory coherence, promote
18 the use of systems-based approaches, and ap-
19 propriately recognize the equivalence of health
20 and safety protection systems of exporting
21 countries,

22 (C) require that measures are trans-
23 parently developed and implemented, are based
24 on risk assessments that take into account rel-
25 evant international guidelines and scientific

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

3 (D) improve import check processes, in-
4 cluding testing methodologies and procedures,
5 and certification requirements, and

6 (E) eliminate and prevent the undermining
7 of market access for United States products
8 through improper use of a country's system for
9 protecting or recognizing geographical indica-
10 tions,

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

18 (12) HUMAN RIGHTS.—Congress' instruction to
19 the President regarding human rights is, in deter-
20 mining whether to conclude the TPP negotiations
21 with each party, to consider whether the government
22 of that TPP party consistently demonstrates respect
23 for “internationally recognized human rights” (as
24 defined in section 108) and is taking steps to ad-
25 dress 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. 103. 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 102,
7 the status of TPP negotiations, and the nature of any
8 changes in domestic law or the administration thereof
9 which may be recommended to Congress to carry out TPP
10 agreement or any requirement of, amendment to, or rec-
11 ommendation under, the TPP agreement.

12 **SEC. 104. 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 title 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 title 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 aysia, Mexico, New Zealand, Peru, Singapore, and
2 Vietnam (in this title referred to as the “Trans-Pa-
3 cific Partnership” or “TPP agreement”) and imple-
4 menting the TPP agreement (in this title 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 TITLE.—Trade authorities procedures shall only
14 apply to an implementing bill if—

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

17 (2) disapproval resolutions, as described in sec-
18 tion 105(b)(1), are not agreed to as provided in sec-
19 tion 105(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 105(b)(2); and

24 (4) each TPP Advisory Group concurs, as de-
25 scribed in section 106(d), with the President’s asser-

1 tion that the TPP agreement achieves the negoti-
2 ating instructions under section 102 and that the
3 President has adequately consulted with Congress.

4 (d) **ACCESSION TO TPP.**—Trade authorities proce-
5 dures shall not apply to a bill of either House of Congress
6 which provides for a foreign country or instrumentality to
7 accede to the TPP agreement, unless—

8 (1) the President provides Congress with 90
9 days notice of the intent to negotiate with the for-
10 eign country or instrumentality to accede to the
11 TPP agreement;

12 (2) a majority of the members of each TPP Ad-
13 visory Group approves of negotiating with that for-
14 eign country or instrumentality within that 90 day
15 consultation period; and

16 (3) the President separately satisfies every re-
17 quirement in this title with respect to the consulta-
18 tions of that foreign country or instrumentality dur-
19 ing negotiations regarding accession to the TPP
20 agreement.

21 **SEC. 105. CONGRESSIONAL CONSULTATION DURING TPP**
22 **NEGOTIATIONS.**

23 (a) **CONSULTATION WITH CONGRESS BEFORE EN-**
24 **TERED INTO A TPP AGREEMENT.**—

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

4 (A) the House and Senate TPP Advisory
5 Groups;

6 (B) the Committee on Ways and Means of
7 the House of Representatives and the Com-
8 mittee on Finance of the Senate;

9 (C) each other committee of the House of
10 Representatives and the Senate, and each joint
11 committee of the Congress, which has jurisdic-
12 tion over legislation involving subject matters
13 which would be affected by the TPP agreement;
14 and

15 (D) any other Member of Congress that re-
16 quests consultations.

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

20 (A) the nature of the TPP agreement;

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

1 (C) the implementation of the TPP agree-
2 ment under section 106, including the general
3 effect of the TPP agreement on existing laws.

4 (3) ACCESS TO TEXT OF NEGOTIATING PRO-
5 POSALS.—

6 (A) IN GENERAL.—Consistent with effec-
7 tive negotiations, the United States Trade Rep-
8 resentative shall encourage maximum accessi-
9 bility to trade texts, the proposals made by the
10 United States and other trading partners. The
11 policy is to make negotiations as open as pos-
12 sible and to identify major issues that are the
13 subject of negotiations.

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

17 (i) A copy of the text of the negoti-
18 ating proposals of the United States with
19 respect to the TPP agreement.

20 (ii) A copy of the text of the negoti-
21 ating proposals of each foreign country
22 with respect to the TPP agreement.

23 (iii) A copy of consolidated negoti-
24 ating texts, which shall indicate which
25 country is advocating for each provision.

1 (C) CONGRESSIONAL STAFF.—Each Mem-
2 ber of Congress may designate one staff mem-
3 ber to review the texts described in clauses (i),
4 (ii), and (iii) of subparagraph (A) if such staff
5 member has an appropriate security clearance,
6 and the President shall, upon request of a
7 Member, promptly make available to such staff
8 the texts described in clauses (i), (ii), and (iii)
9 of subparagraph (A). The Member of Congress
10 does not need to be present for his or her des-
11 ignated staff member to review these texts. In
12 no case shall access to information described in
13 clauses (i), (ii), and (iii) of subparagraph (A)
14 by staff require a security clearance above the
15 level under which the information is classified.

16 (D) TRADE ADVISORY COMMITTEE MEM-
17 BERS.—The President shall promptly make
18 available to each member of a trade advisory
19 committee, with an appropriate security clear-
20 ance, as established under section 135 of the
21 Trade Act of 1974, as amended (19 U.S.C.
22 2155), the text of the negotiation proposals
23 under clauses (i), (ii), and (iii) of subparagraph
24 (A).

1 (E) TIMING OF ACCESS TO TEXTS.—Texts
2 described in clauses (i), (ii), and (iii) of sub-
3 paragraph (A) shall be made available to Mem-
4 bers of Congress and their staff no later than
5 the date on which such information is made
6 available to the government of a foreign country
7 that is a party to the TPP negotiations.

8 (4) PUBLIC SUMMARIES OF TPP NEGOTIA-
9 TION.—Not later than 30 calendar days after the
10 date of the enactment of this Act, the United States
11 Representative shall publish, on a publicly available
12 Internet website, detailed summaries for each chap-
13 ter being negotiated under the TPP. Where appro-
14 priate, the summaries shall explain how the negotia-
15 tions will achieve the negotiating instructions under
16 section 102. The United States Trade Representa-
17 tive shall update these detailed summaries regularly,
18 particularly before and after negotiating rounds.

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

24 (6) ACCREDITATION.—The United States Trade
25 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

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

3 (C) PROCEDURES FOR CONSIDERING RESO-
4 LUTIONS.—

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

7 (I) in the House of Representa-
8 tives shall be referred to the Com-
9 mittee on Ways and Means and, in
10 addition, to the Committee on Rules,
11 and may not be amended by either
12 Committee; and

13 (II) in the Senate shall be re-
14 ferred to the Committee on Finance.

15 (ii) The provisions of section 152(e),
16 (d), and (e) of the Trade Act of 1974 (19
17 U.S.C. 2192 (e), (d), and (e)) (relating to
18 the consideration of certain resolutions in
19 the House and Senate) apply to any dis-
20 approval resolution to which paragraph (1)
21 or (2) applies if—

22 (I) there are at least 145 cospon-
23 sors of the resolution, in the case of
24 a resolution of the House of Rep-
25 resentatives, and at least 34 co-spon-

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

3 (II) no resolution that meets the
4 requirements of clause (I) has pre-
5 viously been considered under such
6 provisions of section 152 of the Trade
7 Act of 1974 in that House of Con-
8 gress during that Congress.

9 (iii) It is not in order for—

10 (I) the Senate to consider any
11 joint resolution unless it has been re-
12 ported by the Committee on Finance
13 or the committee has been discharged
14 pursuant to subparagraph (C)(ii); or

15 (II) the House of Representatives
16 to consider any joint resolution unless
17 it has been reported by the Committee
18 on Ways and Means or the committee
19 has been discharged pursuant to sub-
20 paragraph (C)(ii).

21 (D) COMPUTATION OF CERTAIN TIME PE-
22 RIODS.—Each period of time referred to in sub-
23 paragraph (A) shall be computed without re-
24 gard 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 106(a)(1)(A)(iii).

18 **SEC. 106. CONGRESSIONAL CONSIDERATION AND IMPLE-**
19 **MENTATION 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

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

4 (C) not later than 60 days after entering
5 into the TPP agreement, the President submits
6 to the Congress a description of those changes
7 to existing laws that the President considers
8 would be required in order to bring the United
9 States into compliance with the TPP agree-
10 ment;

11 (D) after entering into the TPP agree-
12 ment, the President submits to the Congress,
13 on a day on which both Houses of Congress are
14 in session, a copy of the final legal text of the
15 TPP agreement, together with—

16 (i) a draft of an implementing bill de-
17 scribed in section 104(b);

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

21 (iii) the supporting information de-
22 scribed in paragraph (2); and

23 (E) the implementing bill is enacted into
24 law.

1 (2) SUPPORTING INFORMATION.—The sup-
2 porting information required under paragraph
3 (1)(D)(iii) consists of—

4 (A) an explanation as to how the imple-
5 menting bill and proposed administrative action
6 will change or affect existing law, including any
7 changes to United States statutes, regulations,
8 or practices concerning food safety; and

9 (B) a statement—

10 (i) asserting that the TPP agreement
11 achieves the applicable purposes, policies,
12 priorities, and negotiating instructions
13 under this title; and

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

16 (I) how and to what extent the
17 TPP agreement achieves the applica-
18 ble purposes, policies, and negotiating
19 instructions referred to in clause (i);

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

23 (III) how, and to what extent,
24 the TPP agreement promotes produc-
25 tion 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.

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

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

9 (i) specific market opportunities with
10 regard to United States exports to each
11 party to the TPP agreement and what im-
12 ports from such country are expected to in-
13 crease as a result of the TPP agreement;

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

19 (iii) the impact on the bilateral United
20 States trade imbalance with TPP parties
21 and the overall United States trade imbal-
22 ance; and

23 (iv) the impact on United States en-
24 ergy security and United States energy
25 prices;

1 (B) the likely impact on United States
2 Federal, State, and local regulation of labor,
3 environmental and natural resources protection,
4 food and drug safety, regulation of financial
5 markets, government procurement, and con-
6 sumer protections;

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

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

19 (E) an assessment of the likely environ-
20 mental impact of the TPP agreement, con-
21 sistent with Executive Order 13141 of Novem-
22 ber 16, 1999, and its relevant guidelines; and

23 (F) an explanation, based on empirical evi-
24 dence, of the rule of origin for automotive prod-
25 ucts, 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
3 102 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 102; 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 104, and
9 section 105(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. 107. ADDITIONAL TPP IMPLEMENTATION AND EN-**
22 **FORCEMENT 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 106(a)(1)(D), the President shall also

1 submit a plan for implementing and enforcing the TPP
2 agreement. The implementation and enforcement plan
3 shall include 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.

11 **SEC. 108. DEFINITIONS.**

12 In this title:

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

15 (A) freedom of association;

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

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

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

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

1 (2) CORE MULTILATERAL ENVIRONMENTAL
2 AGREEMENTS.—The term “core multilateral environ-
3 mental agreements” means the following:

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

8 (B) The Montreal Protocol on Substances
9 that Deplete the Ozone Layer, done at Mon-
10 treal, September 16, 1987, as adjusted and
11 amended.

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

16 (D) The Convention on Wetlands of Inter-
17 national Importance Especially as Waterfowl
18 Habitat, done at Ramsar, February 2, 1971, as
19 amended.

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

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

1 (G) The Convention for the Establishment
2 of an Inter-American Tropical Tuna Commis-
3 sion, done at Washington, May 31, 1949.

4 (3) MAY 10 AGREEMENT OF 2007.—The term
5 “May 10 Agreement of 2007” means the Congres-
6 sional-Executive accord, described in the Report of
7 the Committee on Ways and Means on the United
8 States-Peru Free Trade Promotion Agreement Im-
9 plementation Act, Report 110–421 (November 5,
10 2007), which led to several changes to U.S. trade
11 policy as reflected in modifications made to free
12 trade agreements with Peru, Colombia, Panama, and
13 South Korea, concerning provisions relating to labor,
14 environment, access to medicines, investment, gov-
15 ernment procurement and essential security.

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

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

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

