

117TH CONGRESS  
1ST SESSION

# H. R. 3788

To establish limitations on modifications to trade agreements, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 2021

Mr. NUNES introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To establish limitations on modifications to trade agreements, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting American  
5 Innovation Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Section 8 of article I of the United States  
9 Constitution provides Congress with authority over

1 international trade. Congress has used that author-  
2 ity to approve a number of trade agreements, includ-  
3 ing the WTO Agreement.

4 (2) Section 8 of article I of the United States  
5 Constitution provides Congress with authority to  
6 provide intellectual property protections in order to  
7 “promote the progress of science and useful arts”.  
8 People in the United States rely on those protections  
9 to support jobs and continue the highly successful  
10 leadership of the United States with respect to inno-  
11 vation.

12 (3) The United States may not withdraw or  
13 otherwise alter the rights and obligations for the  
14 United States arising from a congressionally ap-  
15 proved trade agreement without the consent of Con-  
16 gress.

17 (4) The United States is a global leader in con-  
18 taining and ending the COVID–19 pandemic.

19 (5) Innovators in the United States successfully  
20 and rapidly brought to fruition vaccines that provide  
21 highly effective protection against COVID–19. At fa-  
22 cilities across the United States, thousands of  
23 United States workers are working around the clock  
24 to manufacture COVID–19 vaccines, contributing to  
25 the rapid, global scale up of manufacturing that is

1 expected to reach at least 10,000,000,000 doses by  
2 the end of 2021.

3 (6) The United States is a founding member of  
4 the World Trade Organization. The United States  
5 has secured and supported critical commitments in  
6 the WTO for protection of intellectual property of  
7 United States persons and globally, including under  
8 the Trade-Related Aspects of Intellectual Property  
9 Rights Agreement or the TRIPS Agreement.

10 (7) In implementing the Uruguay Round, Con-  
11 gress established under section 315 of the Uruguay  
12 Round Agreements Act (19 U.S.C. 3581) that it is  
13 the objective of the United States to “accelerate the  
14 implementation” of the TRIPS Agreement and to  
15 “seek enactment and effective implementation by  
16 foreign countries of laws to protect and enforce in-  
17 tellectual property rights that supplement and  
18 strengthen the standards” of the TRIPS Agreement.

19 (8) Longstanding intellectual property protec-  
20 tions are critical to efforts by the United States and  
21 the biopharmaceutical industry to develop and man-  
22 ufacture vaccines for both people in the United  
23 States and around the world.

24 (9) The United States is committed to pro-  
25 viding global access to COVID–19 vaccines.

1           (10) In order to accelerate production and dis-  
2           tribution of COVID–19 vaccines, biopharmaceutical  
3           manufacturers in the United States are collaborating  
4           at a scale that previously was unimaginable, includ-  
5           ing by entering into hundreds of voluntary manufac-  
6           turing, production, and other partnerships around  
7           the world.

8           (11) Manufacturing each of the COVID–19  
9           vaccines involves highly specialized and unique infra-  
10          structure and equipment, as well as highly trained  
11          and experienced personnel. Manufacturing and dis-  
12          tributing safe and effective COVID–19 vaccines on  
13          a global scale is incredibly challenging. Many experts  
14          on vaccine production and distribution are warning  
15          that waiving intellectual property protections will un-  
16          dermine the global response to the COVID–19 pan-  
17          demic and compromise vaccine safety, including by  
18          disrupting the distribution of scarce raw materials  
19          for vaccines that existing vaccine makers with prov-  
20          en track records for delivering high-quality, safe,  
21          and effective vaccines need to continue their own  
22          production.

23          (12) The United States Trade Representative  
24          announced without any consultation with Congress  
25          that the United States will support a waiver of intel-

1       lectual property protections under the TRIPS Agree-  
2       ment for COVID–19 vaccines. That decision is not  
3       consistent with the intellectual property negotiating  
4       objectives of the United States set forth in section  
5       315 of the Uruguay Round Agreements Act (19  
6       U.S.C. 3581).

7           (13) That waiver announcement created confu-  
8       sion, and raised concerns that a successful effort to  
9       suspend protections will weaken already strained  
10      supply chains and foster the proliferation of ineffec-  
11      tive and potentially dangerous vaccines.

12          (14) The Trade Representative has not ex-  
13      plained how a waiver of the TRIPS Agreement will  
14      expand vaccine production and access, particularly  
15      considering that the major impediments to vaccina-  
16      tion efforts include the following:

17           (A) The difficulty in meeting the technical  
18           specifications of production and appropriately  
19           ensuring that finished vaccines are high-quality,  
20           safe, and effective.

21           (B) The scarcity of raw materials for the  
22           vaccines.

23           (C) Last-mile distribution and cold-chain  
24           storage.

1           (D) Trade barriers to the free flow of in-  
2           puts and finished products.

3           (15) The Government of the People’s Republic  
4           of China and the Government of the Russian Fed-  
5           eration are engaged in large scale industrial espio-  
6           nage and technology theft of intellectual property of  
7           United States persons. The Department of Justice  
8           has issued indictments in connection with attempts  
9           sponsored by the Government of the People’s Repub-  
10          lic of China to steal United States vaccine research  
11          with respect to COVID–19.

12          (16) The Government of the People’s Republic  
13          of China and the Government of the Russian Fed-  
14          eration are using their vaccines as part of diplomatic  
15          efforts that may be contrary to the national security  
16          interests of the United States. Vaccines for COVID–  
17          19 manufactured by persons in the People’s Repub-  
18          lic of China and the Russian Federation appear to  
19          be less efficacious than those manufactured by pro-  
20          ducers in the United States. The Academy of Mili-  
21          tary Science, the scientific arm of the military of the  
22          People’s Republic of China, is sponsoring the prin-  
23          cipal effort by the People’s Republic of China to de-  
24          velop its own mRNA vaccine.

1           (17) At a hearing before the Committee on Fi-  
2 nance of the Senate on May 12, 2021, the Trade  
3 Representative would not commit either—

4           (A) to ensure that any waiver of the  
5 TRIPS Agreement would exclude the People’s  
6 Republic of China and the Russian Federation;  
7 or

8           (B) to ensure that Congress has advance  
9 access to the negotiating proposals of the  
10 United States for any such waiver.

11          (18) The innovative biopharmaceutical compa-  
12 nies in the United States contribute more than  
13 \$1,100,000,000,000 annually to the United States  
14 economy, and employ more than 500,000 workers  
15 making 1.4 times the average earnings in the United  
16 States, including 153,000 workers who do not have  
17 a college degree.

18          (19) Waiving intellectual property protections,  
19 particularly of the mRNA technology platform in  
20 which the Defense Advanced Research Project Agen-  
21 cy invested not less than \$250,000,000, raises seri-  
22 ous economic and national security concerns.

23 **SEC. 3. SENSE OF CONGRESS.**

24          It is the sense of Congress that—

1           (1) the United States should continue to act as  
2 a global leader to help contain and end the COVID–  
3 19 pandemic at home and abroad;

4           (2) innovators in the United States are already  
5 heroes for their breakthrough work in developing  
6 and producing COVID–19 vaccines;

7           (3) it should be a priority of the global commu-  
8 nity, with the assistance of the United States, to ef-  
9 ficiently and quickly manufacture and distribute  
10 COVID–19 vaccines around the world, and in par-  
11 ticular to those countries that are most vulnerable;

12           (4) current impediments to further vaccination  
13 efforts are due to—

14                   (A) the technically difficult manufacturing  
15 requirements for vaccines;

16                   (B) the need to appropriately ensure that  
17 vaccines are high-quality, safe, and effective;

18                   (C) raw material constraints; and

19                   (D) difficulties in distribution;

20           (5) intellectual property protections for  
21 COVID–19 vaccines have not impeded vaccination  
22 efforts for COVID–19;

23           (6) intellectual property protections in fact help  
24 ensure the safe and efficient manufacturing of  
25 COVID–19 vaccines;



1           (7) waiving intellectual property protections  
2           could lead to the production of substandard, ineffec-  
3           tive, and potentially unsafe COVID–19 vaccines;

4           (8) the Trade Representative must consult with  
5           Congress before taking a position on the current  
6           TRIPS Agreement waiver proposal before the WTO  
7           and any further proposals to waive or weaken intel-  
8           lectual property obligations under the TRIPS Agree-  
9           ment;

10          (9) Congress and the people of the United  
11          States are entitled to comprehensive expert analysis  
12          regarding the implications of a waiver to the TRIPS  
13          Agreement for jobs, economic growth, public health,  
14          and national security in the United States; and

15          (10) the United States must oppose any waiver  
16          to intellectual property obligations under the TRIPS  
17          Agreement for the response to the COVID–19 pan-  
18          demic until those implications are fully analyzed.

19 **SEC. 4. DEFINITIONS.**

20          In this Act:

21           (1) **APPROPRIATE CONGRESSIONAL COMMIT-**  
22           **TEES.**—The term “appropriate congressional com-  
23           mittees” means the Committee on Finance of the  
24           Senate and the Committee on Ways and Means of  
25           the House of Representatives.

1           (2) COMMISSION.—The term “Commission”  
2 means the United States International Trade Com-  
3 mission.

4           (3) MINISTERIAL CHANGE.—The term “min-  
5 isterial change”, with respect to a trade agreement,  
6 means a change to address a clerical, typographical,  
7 or grammatical error and does not include any  
8 change that would change the intended rights or ob-  
9 ligations of a party to the trade agreement.

10          (4) OFFICIAL ADVISOR.—The term “official ad-  
11 visor” means a person accredited by the Trade Rep-  
12 resentative on behalf of the President as an official  
13 adviser to the United States delegations to inter-  
14 national conferences, meetings, and negotiating ses-  
15 sions relating to international trade negotiations,  
16 and who may attend any portion of those negotia-  
17 tions.

18          (5) COVID–19 PANDEMIC.—The term  
19 “COVID–19 pandemic” means the outbreak of novel  
20 coronavirus (COVID–19) that was declared by the  
21 World Health Organization on March 11, 2020, to  
22 be a pandemic.

23          (6) STATE SPONSOR OF TERRORISM.—The term  
24 “state sponsor of terrorism” means a country the  
25 government of which the Secretary of State has de-

1 terminated is a government that has repeatedly pro-  
2 vided support for acts of international terrorism, for  
3 purposes of—

4 (A) section 1754(c)(1)(A)(i) of the Export  
5 Control Reform Act of 2018 (50 U.S.C.  
6 4813(c)(1)(A)(i));

7 (B) section 620A of the Foreign Assistance  
8 Act of 1961 (22 U.S.C. 2371);

9 (C) section 40(d) of the Arms Export Con-  
10 trol Act (22 U.S.C. 2780(d)); or

11 (D) any other provision of law.

12 (7) TRADE AGREEMENT.—The term “trade  
13 agreement” means any trade agreement to which the  
14 United States is a party that has been approved by  
15 Congress, including the TRIPS Agreement.

16 (8) TRADE REPRESENTATIVE.—The term  
17 “Trade Representative” means the United States  
18 Trade Representative.

19 (9) TRIPS AGREEMENT.—The term “TRIPS  
20 Agreement” means the Agreement on Trade-Related  
21 Aspects of Intellectual Property Rights referred to in  
22 section 101(d)(15) of the Uruguay Round Agree-  
23 ments Act (19 U.S.C. 3511(d)(15)).

24 (10) TRIPS WAIVER.—The term “TRIPS waiv-  
25 er” means any waiver of an obligation imposed on

1 members of the World Trade Organization under the  
2 TRIPS Agreement.

3 (11) WORLD TRADE ORGANIZATION; WTO; WTO  
4 AGREEMENT.—The terms “World Trade Organiza-  
5 tion”, “WTO”, and “WTO Agreement” have the  
6 meanings given those terms in section 2 of the Uru-  
7 guay Round Agreements Act (19 U.S.C. 3501).

8 **SEC. 5. PROHIBITION ON COMPROMISING UNITED STATES**  
9 **TRADING RIGHTS TO CHINA AND RUSSIA.**

10 (a) PROHIBITION ON WITHDRAWAL, SUSPENSION, OR  
11 MODIFICATION.—

12 (1) IN GENERAL.—The President, and any offi-  
13 cial, employee, or agent of the United States, may  
14 not negotiate or conclude any withdrawal, suspen-  
15 sion, or modification to a trade agreement that ad-  
16 versely affects, nullifies, or impairs the rights of the  
17 United States or United States persons under a  
18 trade agreement with respect to the People’s Repub-  
19 lic of China or the Russian Federation.

20 (2) DISCIPLINE.—Any official, employee, or  
21 agent of the United States who violates subsection  
22 (a) shall be subject to appropriate discipline, as de-  
23 termined by the President, including suspension  
24 from duty without pay or removal from office.

1           (3) REPORT ON VIOLATIONS.—Immediately fol-  
2           lowing any violation of subsection (a) by an official,  
3           employee, or agent of the United States, the Presi-  
4           dent shall submit to the appropriate congressional  
5           committees a report setting forth a statement re-  
6           garding the violation and a description of the actions  
7           taken with respect to the official, employee, or  
8           agent, as the case may be, including all relevant  
9           facts.

10          (b) NO EFFECT OF AMENDMENT OR MODIFICATION  
11 TO AGREEMENT.—No amendment or other modification  
12 to a trade agreement, including a waiver of one or more  
13 provisions of the agreement, shall take effect with respect  
14 to the United States—

15           (1) if the amendment or modification adversely  
16           affects, nullifies, or impairs the benefits to the  
17           United States under the agreement with respect to  
18           the People’s Republic of China or the Russian Fed-  
19           eration, including with respect to intellectual prop-  
20           erty rights; or

21           (2) if the President failed or refused to consult  
22           on the amendment or modification pursuant to sec-  
23           tions 6 and 7.

1 **SEC. 6. LIMITATIONS AND ANALYSIS OF WAIVER OF OBLI-**  
2 **GATIONS UNDER AGREEMENT ON TRADE-RE-**  
3 **LATED ASPECTS OF INTELLECTUAL PROP-**  
4 **ERTY RIGHTS WITH RESPECT TO ADDRESS-**  
5 **ING THE COVID-19 PANDEMIC.**

6 (a) **TRIPS WAIVER.**—A TRIPS waiver with respect  
7 to addressing the COVID-19 pandemic shall not take ef-  
8 fect with respect to the United States if—

9 (1) the President fails to submit the reports re-  
10 quired under subsections (b) and (c)(2) pursuant to  
11 the requirements of those subsections;

12 (2) the report required under subsection (b)  
13 concludes that the TRIPS waiver will not result in  
14 an increase in global vaccine access; or

15 (3) the report required under subsection (c)(2)  
16 concludes that the TRIPS waiver would adversely  
17 impact the national security of the United States.

18 (b) **INTERAGENCY PUBLIC HEALTH REPORT.**—

19 (1) **IN GENERAL.**—Before any official, em-  
20 ployee, or agent of the United States enters into ne-  
21 gotiations concerning a TRIPS waiver with respect  
22 to addressing the COVID-19 pandemic after the  
23 date of the enactment of this Act, and not later than  
24 60 days after such date of enactment, the Secretary  
25 of Commerce, in consultation with the Trade Rep-  
26 resentative, the Secretary of Health and Human

1 Services, the Commissioner of the Food and Drug  
2 Administration, and the Director of the Centers for  
3 Disease Control and Prevention shall submit to Con-  
4 gress a report assessing—

5 (A) how the TRIPS waiver would impact,  
6 during the period beginning on the date of the  
7 enactment of this Act and ending on December  
8 31, 2022—

9 (i) access to vaccines in the United  
10 States;

11 (ii) access to vaccines globally;

12 (iii) global supply chains of COVID–  
13 19 vaccines and related technologies and  
14 the inputs needed to produce those vac-  
15 cines and related technologies;

16 (iv) the gross domestic product of the  
17 United States;

18 (v) exports and imports by the United  
19 States of COVID–19 vaccines and related  
20 technologies and the inputs needed to  
21 produce those vaccines and related tech-  
22 nologies;

23 (vi) manufacturing in the United  
24 States of COVID–19 vaccines and related  
25 technologies and the inputs needed to

1 produce those vaccines and related tech-  
2 nologies; and

3 (vii) investment in vaccine production  
4 in the United States and in research and  
5 development for future vaccines;

6 (B) what existing flexibilities within the  
7 TRIPS Agreement can be used to expedite vac-  
8 cine access during the one-year period begin-  
9 ning on the date of the enactment of this Act  
10 and how those flexibilities may be effectively  
11 used; and

12 (C) other reasonably feasible alternatives  
13 to the TRIPS waiver that might expedite global  
14 vaccine production during that one-year period  
15 and the effectiveness of those alternatives rel-  
16 ative to a TRIPS waiver, including distribution  
17 from the United States or from other countries.

18 (2) PUBLICATION OF REPORT.—The Secretary  
19 of Commerce shall publish the report required under  
20 paragraph (1) on a publicly available website of the  
21 Department of Commerce, which shall include a con-  
22 clusion of whether a TRIPS waiver with respect to  
23 addressing the COVID–19 pandemic will increase  
24 global vaccine access during the one-year period be-  
25 ginning on the date of the enactment of this Act.



1 (c) NATIONAL SECURITY INVESTIGATION.—

2 (1) IN GENERAL.—The Secretary of Defense  
3 shall conduct an investigation, in consultation with  
4 the Secretary of Commerce, the Secretary of Health  
5 and Human Services, and the Trade Representative,  
6 to determine the effects of a TRIPS waiver with re-  
7 spect to addressing the COVID–19 pandemic on the  
8 national security of the United States, in particular  
9 whether such a waiver that extends to mRNA tech-  
10 nology could contribute to future deployment of that  
11 technology by the People’s Republic of China, the  
12 Russian Federation, or countries designated as state  
13 sponsors of terrorism.

14 (2) REPORT.—

15 (A) IN GENERAL.—Before any official, em-  
16 ployee, or agent of the United States enters  
17 into negotiations concerning a TRIPS waiver  
18 with respect to addressing the COVID–19 pan-  
19 demic after the date of the enactment of this  
20 Act, and not later than 60 days after such date  
21 of enactment, the Secretary of Defense shall  
22 submit to the President and the appropriate  
23 congressional committees a report on the find-  
24 ings of the investigation under paragraph (1),  
25 including the recommendations of the Secretary

1 for action or inaction regarding the TRIPS  
2 waiver.

3 (B) ADVICE.—If the Secretary of Defense  
4 determines that a TRIPS waiver with respect to  
5 addressing the COVID–19 pandemic threatens  
6 to impair national security, the Secretary shall  
7 so advise the President and the appropriate  
8 congressional committees in the report required  
9 under subparagraph (A).

10 **SEC. 7. TRADE AGREEMENTS: SUSPENSIONS AND OTHER**  
11 **MODIFICATIONS, CONSULTATIONS, AND SUB-**  
12 **MISSION TO CONGRESS.**

13 (a) TRADE REPRESENTATIVE ENGAGEMENT WITH  
14 THE PUBLIC.—

15 (1) IN GENERAL.—Before entering into any ne-  
16 gotiation with a trading partner concerning a sus-  
17 pension of or modification to a trade agreement, in-  
18 cluding a waiver of obligations, the Trade Represent-  
19 ative shall publish in the Federal Register a notice  
20 identifying—

21 (A) the objectives of the United States for  
22 that negotiation;

23 (B) the rationale for why the trade agree-  
24 ment does not presently allow the United States  
25 to meet those objectives; and

1 (C) the provision or provisions of the trade  
2 agreement that the United States proposes to  
3 suspend or modify.

4 (2) COMMENTS.—The Trade Representative  
5 shall allow the public an opportunity to submit com-  
6 ments concerning the notice required under para-  
7 graph (1) for a period of not less than 30 days, and  
8 shall hold a hearing to hear testimony from mem-  
9 bers of the public.

10 (b) INITIAL EVALUATION BY THE COMMISSION.—

11 (1) IN GENERAL.—After the end of the com-  
12 ment period under subsection (a)(2), and after an  
13 evaluation by the Trade Representative of those  
14 comments, if the Trade Representative determines to  
15 pursue a suspension of or modification to a trade  
16 agreement, the Trade Representative shall submit to  
17 the Commission a plan for the negotiation of the  
18 suspension or modification, as the case may be,  
19 which shall include—

20 (A) the objectives of the United States for  
21 the negotiation;

22 (B) a description of the inadequacies of the  
23 trade agreement, including by reference to spe-  
24 cific provisions that preclude the United States  
25 from meeting its objectives;

1 (C) a description of how the Trade Rep-  
2 resentative plans to remedy those inadequacies;

3 (D) evidence supporting those inadequa-  
4 cies; and

5 (E) a justification for why the suspension  
6 or modification would remedy those inadequa-  
7 cies.

8 (2) HEARING AND REPORT.—

9 (A) PUBLICATION OF REPORT.—For each  
10 suspension of or modification to a trade agree-  
11 ment for which a plan was submitted to the  
12 Commission under paragraph (1), the Commis-  
13 sion shall publish on an internet website of the  
14 Commission a report evaluating—

15 (i) the existence and extent of the  
16 purported inadequacies in the trade agree-  
17 ment;

18 (ii) what progress, if any, the plan  
19 might make in remedying those inadequa-  
20 cies; and

21 (iii) the likely impact of the suspen-  
22 sion or modification on the economy of the  
23 United States as a whole and on specific  
24 industry sectors, including any impact on  
25 gross domestic product, exports and im-

1           ports, aggregate employment and employ-  
2           ment opportunities, production, employ-  
3           ment, and competitive position of indus-  
4           tries likely to be significantly affected by  
5           the suspension or modification, and the in-  
6           terests of consumers.

7           (B) PUBLIC HEARING.—The Commission  
8           shall conduct a public hearing for each suspen-  
9           sion of or modification to a trade agreement for  
10          which a plan was submitted to the Commission  
11          under paragraph (1) before publishing a report  
12          with respect to that suspension or modification  
13          under subparagraph (A).

14          (C) TIMING.—The Commission shall pub-  
15          lish the report required under subparagraph (A)  
16          with respect to a suspension of or modification  
17          to a trade agreement for which a plan was sub-  
18          mitted to the Commission under paragraph (1)  
19          not earlier than 30 days and not later than 120  
20          days after the plan was submitted.

21          (D) CONFIDENTIAL REPORT.—If the Com-  
22          mission determines that certain aspects of a re-  
23          port required to be published under subpara-  
24          graph (A) must be kept confidential to protect  
25          proprietary data or to protect the interests of

1 the United States with respect to a potential  
2 negotiation, the Commission shall—

3 (i) published a redacted report under  
4 subparagraph (A); and

5 (ii) submit to the appropriate congress-  
6 sional committees an unredacted report.

7 (E) NEGOTIATION.—The Trade Represent-  
8 ative may proceed to enter into negotiations  
9 with a trading partner with respect to a suspen-  
10 sion of or modification to a trade agreement for  
11 which a plan was submitted to the Commission  
12 under paragraph (1) not earlier than 5 business  
13 days following the publication under subpara-  
14 graph (A) of the report regarding that suspen-  
15 sion or modification.

16 (c) CONGRESSIONAL CONSULTATION DURING THE  
17 COURSE OF NEGOTIATIONS.—

18 (1) NOTICE.—Not later than 60 days before en-  
19 tering into any negotiations with a trading partner  
20 concerning a suspension of or modification to a  
21 trade agreement, including a waiver of one or more  
22 provisions or obligations of the agreement, the Presi-  
23 dent shall provide written notice to Congress of the  
24 intention of the President to enter into the negotia-  
25 tions, which shall include—

1 (A) the date on which the President in-  
2 tends to initiate the negotiations;

3 (B) the specific objectives of the United  
4 States for the negotiations; and

5 (C) an assessment of why it is necessary to  
6 suspend or modify the trade agreement in order  
7 to meet those objectives.

8 (2) CONSULTATION.—

9 (A) PRESIDENT.—Following the notice re-  
10 quired under paragraph (1) with respect to ne-  
11 gotiations concerning a suspension of or modi-  
12 fication to a trade agreement, the President  
13 shall consult with Congress with respect to  
14 those negotiations as set forth in section 105 of  
15 the Bipartisan Congressional Trade Priorities  
16 and Accountability Act of 2015 (19 U.S.C.  
17 4204) in the same manner as if the suspension  
18 or modification was an agreement subject to the  
19 provisions of that section.

20 (B) TRADE REPRESENTATIVE.—With re-  
21 spect to negotiations described in paragraph  
22 (1), the Trade Representative shall consult  
23 closely and on a timely basis with the appro-  
24 priate congressional committees, keeping those  
25 committees fully apprised of those negotiations,

1 and provide to those committees, including staff  
2 with appropriate security clearance, access to  
3 the text of any negotiating proposal or any  
4 other document presented by the United States  
5 that presents concepts or considerations for the  
6 negotiations not later than 5 business days be-  
7 fore tabling it in the negotiation.

8 (3) DESIGNATION OF ADVISORS.—The chair  
9 and ranking member of each of the appropriate con-  
10 gressional committees may each designate not more  
11 than 4 members of their committee and not more  
12 than 3 staffers as official advisors to negotiations  
13 described in paragraph (1).

14 (4) BRIEFING.—

15 (A) IN GENERAL.—The Trade Representa-  
16 tive shall brief the appropriate congressional  
17 committees before and after every session with  
18 respect to negotiations described in paragraph  
19 (1).

20 (B) TIMING OF FOLLOW-UP BRIEFING.—A  
21 briefing required under subparagraph (A) fol-  
22 lowing a negotiating session shall take place not  
23 later than 5 business days following the session.

24 (d) TIMING OF EXISTING REPORT.—Notwith-  
25 standing the timing requirements under section 135(e)(1)



1 of the Trade Act of 1974 (19 U.S.C. 2155(e)(1)), the re-  
2 port required under that section regarding any trade  
3 agreement entered into under subsection (a) or (b) of sec-  
4 tion 103 of the Bipartisan Congressional Trade Priorities  
5 and Accountability Act of 2015 (19 U.S.C. 4202) shall  
6 be provided to the President, Congress, and the Trade  
7 Representative not later than 30 days after the date on  
8 which the President notifies Congress of the intention of  
9 the President to enter into a suspension of or modification  
10 to the trade agreement.

11 (e) AUTHORITY FOR SUSPENSION OR MODIFICATION  
12 OF A TRADE AGREEMENT.—The President shall not enter  
13 into any suspension of or modification to a trade agree-  
14 ment, unless—

15 (1) the President has complied with all con-  
16 sultation requirements set forth in subsection (c);  
17 and

18 (2) an Act of Congress is enacted approving the  
19 suspension or modification or a joint resolution is  
20 adopted under subsection (f) approving the suspen-  
21 sion or modification.

22 (f) JOINT RESOLUTION.—

23 (1) IN GENERAL.—The President may seek a  
24 joint resolution from Congress granting the Presi-

1       dent authority to enter into a suspension of or modi-  
2       fication to a trade agreement as follows:

3               (A) The President shall post the text con-  
4       cerning the relevant changes to the trade agree-  
5       ment on a publicly available website of the Of-  
6       fice of the United States Trade Representative  
7       for not less than 5 business days.

8               (B) The President shall submit the text  
9       concerning the relevant changes to the trade  
10      agreement to the Commission, which shall pub-  
11      lish on a publicly available website of the Com-  
12      mission a report on how the changes to the  
13      trade agreement will impact employment, eco-  
14      nomic growth, and consumers in the United  
15      States. The Commission shall publish that re-  
16      port not earlier than 30 days and not later than  
17      120 days after receiving from the President the  
18      text concerning the relevant changes to the  
19      trade agreement.

20              (C) The President shall submit to Con-  
21      gress on a day on which both Houses of Con-  
22      gress are in session a copy of the final legal  
23      text with respect to which the President seeks  
24      authority to commit the United States, together  
25      with—

1 (i) the report prepared by the Com-  
2 mission under subparagraph (B);

3 (ii) an identification of any United  
4 States laws that may be inconsistent with  
5 the text; and

6 (iii) a statement of any administrative  
7 action proposed to implement any changes  
8 to the trade agreement.

9 (2) INTRODUCTION.—A joint resolution approv-  
10 ing a suspension of or modification to a trade agree-  
11 ment may be introduced in either House of Congress  
12 by the chair or ranking member of one of the appro-  
13 priate congressional committees.

14 (3) PROCEDURES IN HOUSE AND SENATE.—The  
15 provisions of subsections (b) through (f) of section  
16 152 of the Trade Act of 1974 (19 U.S.C. 2192)  
17 shall apply with respect to a joint resolution intro-  
18 duced under paragraph (2) to the same extent and  
19 in the same manner as such provisions apply with  
20 respect to a resolution described in subsection (a) of  
21 that section.

22 (4) HEARING AND BRIEFINGS.—Following in-  
23 troduction of a joint resolution under paragraph (2),  
24 the appropriate congressional committees shall, as  
25 appropriate, hold hearings and briefings and other-

1 wise obtain information in order to fully review the  
2 proposed suspension of or modification to a trade  
3 agreement.

4 (5) DISCHARGE.—If the committee of either  
5 House to which a joint resolution introduced under  
6 paragraph (2) has been referred has not reported it  
7 by the close of the 40th day after its introduction  
8 (excluding any day described in section 154(b) of the  
9 Trade Act of 1974 (19 U.S.C. 2194(b))), that com-  
10 mittee shall be automatically discharged from fur-  
11 ther consideration of the joint resolution and it shall  
12 be placed on the appropriate calendar.

13 (6) CONSIDERATION.—

14 (A) IN GENERAL.—It is not in order for—

15 (i) the Senate to consider any joint  
16 resolution introduced under paragraph (2)  
17 unless it has been reported by the Com-  
18 mittee on Finance or the committee has  
19 been discharged under paragraph (5); or

20 (ii) the House of Representatives to  
21 consider any joint resolution introduced  
22 under paragraph (2) unless it has been re-  
23 ported by the Committee on Ways and  
24 Means or the committee has been dis-  
25 charged under paragraph (5).

1           (B) MOTION TO PROCEED IN HOUSE OF  
2 REPRESENTATIVES.—A motion in the House of  
3 Representatives to proceed to the consideration  
4 of a joint resolution may only be made on the  
5 second legislative day after the calendar day on  
6 which the Member making the motion an-  
7 nounces to the House his or her intention to do  
8 so.

9           (7) RULES OF SENATE AND HOUSE OF REP-  
10 REPRESENTATIVES.—This subsection is enacted by Con-  
11 gress—

12           (A) as an exercise of the rulemaking power  
13 of the Senate and the House of Representa-  
14 tives, respectively, and as such is deemed a part  
15 of the rules of each House, respectively, and  
16 such procedures supersede other rules only to  
17 the extent that they are inconsistent with such  
18 other rules; and

19           (B) with the full recognition of the con-  
20 stitutional right of either House to change the  
21 rules (so far as relating to the procedures of  
22 that House) at any time, in the same manner,  
23 and to the same extent as any other rule of that  
24 House.

1           (g) APPLICATION TO MINISTERIAL CHANGES.—This  
2 section shall not apply with respect to any ministerial  
3 changes to a trade agreement.

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