

United States Senate

WASHINGTON, DC 20510

STATEMENT FOR THE RECORD

U.S. Senator Ron Wyden

On Introduction of the "Congressional Oversight Over Trade Negotiations Act"

M. President, right now, the Obama Administration is in the process of negotiating what might prove to be the most far-reaching economic agreement since the World Trade Organization was established nearly twenty years ago.

The goal of this agreement – known as the Trans Pacific Partnership (TPP) – is to economically bind together the economies of the Asia Pacific. It involves countries ranging from Australia, Singapore, Vietnam, Peru, Chile and the United States and holds the potential to include many more countries, like Japan, Korea, Canada, and Mexico. If successful, the agreement will set norms for the trade of goods and services and includes disciplines related to intellectual property, access to medicines, Internet governance, investment, government procurement, worker rights and environmental standards.

If agreed to, TPP will set the tone for our nation's economic future for years to come, impacting the way Congress intervenes and acts on behalf of the American people it represents.

It may be the U.S. Trade Representative's (USTR) current job to negotiate trade agreements on behalf of the United States, but Article 1 Section 8 of the U.S. Constitution gives Congress – not the USTR or any other member of the Executive Branch – the responsibility of regulating foreign commerce. It was our Founding Fathers' intention to ensure that the laws and policies that govern the American people take into account the interests of all the American people, not just a privileged few.

And yet, Mr. President, the majority of Congress is being kept in the dark as to the substance of the TPP negotiations, while representatives of U.S. corporations – like Halliburton, Chevron, PHRMA, Comcast, and the Motion Picture Association of America – are being consulted and made privy to details of the agreement. As the Office of the USTR will tell you, the President gives it broad power to keep information about the trade policies it advances and negotiates, secret. Let me tell you, the USTR is making full use of this authority.

As the Chairman of the Senate Finance Committee's Subcommittee on International Trade, Customs, and Global Competitiveness, my office is responsible for conducting oversight over the USTR and trade negotiations. To do that, I asked that my staff obtain the proper security credentials to view the information that USTR keeps confidential and secret. This is material that fully describes what the USTR is seeking in the TPP talks on behalf of the American people and on behalf of Congress. More than two months after receiving the proper security credentials, my staff is still barred from viewing the details of the proposals that USTR is advancing.

M. President, we hear that the process by which TPP is being negotiated has been a model of transparency. I disagree with that statement. And not just because the Staff Director of the Senate subcommittee responsible for oversight of international trade continues to be denied access to substantive and detailed information that pertains to the TPP talks.

M. President, Congress passed legislation in 2002 to form the Congressional Oversight Group, or COG, to foster more USTR consultation with Congress. I was a senator in 2002. I voted for that law and I can tell you the intention of that law was to ensure that USTR consulted with more Members of Congress not less.

In trying to get to the bottom of why my staff is being denied information, it seems that some in the Executive Branch may be interpreting the law that established the COG to mean that only the few Members of Congress who belong to the COG can be given access to trade negotiation information, while every other Member of Congress, and their staff, must be denied such access. So, this is not just a question of whether or not cleared staff should have access to information about the TPP talks, this is a question of whether or not the administration believes that most Members of Congress can or should have a say in trade negotiations.

Again, having voted for that law, I strongly disagree with such an interpretation and find it offensive that some would suggest that a law meant to foster more consultation with Congress is intended to limit it. But given that the TPP negotiations are currently underway and I – and the vast majority of my colleagues and their staff – continue to be denied a full understanding of what the USTR is seeking in the agreement, we do not have time to waste on a protracted legal battle over this issue. Therefore, I am introducing legislation to clarify the intent of the COG statute.

The legislation, I propose, is straightforward. It gives all Members of Congress and staff with appropriate clearance access to the substance of trade negotiations. Finally, Members of Congress who are responsible for conducting oversight over the enforcement of trade agreements will be provided information by the Executive Branch indicating whether our trading partners are living up to their trade obligations. Put simply, this legislation would ensure that the representatives elected by the American people are afforded the same level of influence over our nation's policies as the paid representatives of PHRMA, Halliburton and the Motion Picture Association.

My intent is to do everything I can to see that this legislation is advanced quickly and becomes law, so that elected Members of Congress can do what the Constitution requires and what their constituents expect.

I yield the floor.

Ron Wyden

112TH CONGRESS
2D SESSION**S.** _____

To require the United States Trade Representative to provide documents relating to trade negotiations to Members of Congress and their staff upon request, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. WYDEN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To require the United States Trade Representative to provide documents relating to trade negotiations to Members of Congress and their staff upon request, 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 “Congressional Over-
5 sight Over Trade Negotiations Act”.

1 **SEC. 2. ACCESS OF MEMBERS OF CONGRESS AND THEIR**
2 **STAFF TO DOCUMENTS RELATING TO TRADE**
3 **NEGOTIATIONS.**

4 (a) **PURPOSES.**—The purposes of this section are—

5 (1) to ensure the adequate consultation of the
6 United States Trade Representative with Members
7 of Congress;

8 (2) to provide Members of Congress with appro-
9 priate opportunities—

10 (A) to advise the Trade Representative
11 with respect to the formulation of trade policy;
12 and

13 (B) to propose specific negotiating objec-
14 tives for trade negotiations; and

15 (3) to provide Members of Congress with the
16 information necessary to assess compliance with and
17 enforcement of commitments made by countries that
18 are parties to trade agreements with the United
19 States.

20 (b) **ACCESS TO CERTAIN DOCUMENTS.**—Notwith-
21 standing section 2107 of the Bipartisan Trade Promotion
22 Authority Act of 2002 (19 U.S.C. 3807) or any other pro-
23 vision of law, the United States Trade Representative shall
24 provide access to documents, including classified mate-
25 rials, relating to negotiations for a trade agreement to
26 which the United States may be a party and policies ad-

1 vanced by the Trade Representative in such negotiations

2 to—

3 (1) any Member of Congress that requests such

4 documents; and

5 (2) staff of such a Member with proper security

6 clearances.