

The only thing holding us up from getting a definitive report of those actions before, during, and after those attacks is this executive branch and their Department of State. We are begging them. And as we have said before, we have moved an inch, we have moved a foot, we have moved a yard, we have moved a mile, and they have not moved one iota.

So our request to them is to listen, to give us the documents and let us finish this report.

Mr. Speaker, I yield back the balance of my time.

### CONGRESSIONAL ROLE IN TRADE POLICY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2015, the gentleman from Michigan (Mr. LEVIN) is recognized for 60 minutes as the designee of the minority leader.

Mr. LEVIN. Mr. Speaker, it has been over 12 years since the last debate over trade promotion authority, the last time we considered the role of Congress in trade negotiations. Much has changed since then: the world has changed; trade negotiations have changed; and the role of Congress in trade negotiations has changed.

We all recognize that trade can be beneficial. The issue is not whether Congress could pass an Econ 101 class, as President George W. Bush's chair of the Council of Economic Advisers, Gregory Mankiw, recently put it. The issue is whether we are going to face up to the fact that our trading system today is much more complex than the simplistic trade model presented in an Econ 101 class.

A growing number of prominent economists today recognize those complexities, from Nobel Laureate economists like Joseph Stiglitz and Paul Krugman, to Columbia professor Jeffrey Sachs, former IMF chief economist Simon Johnson, and former White House adviser Jared Bernstein. But too many want to pretend the question of a trade agreement is a "no-brainer," as Professor Mankiw suggests; or that the benefits of trade "flows from the classic theory of trade gains first expounded by David Ricardo in 1817"—from a Council of Economic Advisers report in May 2015—because, as Charles Krauthammer recently wrote: "The law of comparative advantage has held up nicely for 198 years."

What do David Ricardo and Adam Smith have to say about the inclusion of investor-state dispute settlement in our trade agreements? Nothing, to my knowledge. What do they have to say about providing a 12-year monopoly for the sale of biologic medicines? about the need to ensure that our trading partners meet basic labor and environmental standards? How about the issue of currency manipulation? What does the theory of comparative advantage have to say about those issues? Absolutely nothing. And yet those are the

issues at the crux of the TPP negotiations today.

So how do the old ideas on trade fall short? Let me mention a few examples:

First, as Joseph Stiglitz pointed out recently, 19th century economics and the theory of comparative advantage assumed a fixed level of technology—no technological changes—and full employment. Those assumptions don't fit very well in today's world.

Second, one of the most critical economic issues facing our country today is growing inequality and a stagnant middle class. Many trade economists believe that trade contributes to that inequality. But some try to downplay that fact by pointing out that other factors may contribute more to the problem, as if that means we should not worry about the impact trade is having. Consider this from Dani Rodrik, a Harvard University economist: "The gains from trade look rather paltry compared to the redistribution of income . . . In an economy like the U.S., where average tariffs are below 5 percent, a move to complete free trade would reshuffle more than \$50 of income among different groups for each dollar of efficiency or 'net' gain created . . . We are talking about \$50 of redistribution for every \$1 of aggregate gain. It is as if we give \$51 to Adam, only to leave David \$50 poorer."

David Rosnick of the Center for Economic and Policy Research expects TPP will have a very small but positive impact on U.S. economic growth—0.13 percent of GDP by 2025. However, he notes that economists today generally agree that trade contributes to growing economic inequality in the United States, with estimates ranging from 10 to 50 percent of the total inequality growth. When he combines these two concepts, GDP growth but rising inequality from trade, he concludes: "under any reasonable assumptions about the effect of trade on inequality, the median wage earner, and therefore the majority of workers, suffers a net loss as a result of these trade agreements." In other words, the economic pie may grow slightly as a result of our trade agreements, but the average American worker gets a smaller slice of that pie.

Similarly, in September The Brookings Institution published an economic research paper by three economists, two affiliated with the Federal Reserve system, that found that trade and globalization accounts for the vast majority of labor's declining share of income in the United States over the past 25 years. Specifically, they found that "increases in import exposure of U.S. businesses can explain about 3.3 percentage points of the 3.9 percentage point decline in the U.S. payroll share over the past quarter century."

This underscores that the substance of the trade agreements, the international rules, matter. Our trade agreements must be designed to shape trade, to spread its benefits more broadly.

Third, we need to stop pretending that trade only has benefits and few costs. We need to stop talking exclusively about exports and downplaying the negative impact that some imports have, as the Council of Economic Advisers did in a recent paper.

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Of course, imports can help to lower prices for manufacturers and consumers. But lower prices don't do you much good if you have lost your job or seen your wage decline or stagnate. Again, as Jeff Sachs has said, "It is true that the benefits outweigh the costs, leading to the argument that winners can compensate losers. But in America, winners rarely compensate losers; more often than not, the winners attempt to trounce the losers."

Mr. Speaker, the old economics models are based in part on trade between countries with similar economic structures. This is no longer the case.

The 12 parties involved in the TPP negotiations—accounting for 40 percent of the world GDP—include economies ranging from some of the world's largest market-oriented economies to some of the smallest, least developed command economies. We have never been able to establish a level playing field with Japan—after decades of trying, and multiple "agreements" to solve various problems—and the Japanese market stands virtually closed today in key areas like agriculture and automobiles. We have never negotiated a free trade agreement with a communist country like Vietnam where state-owned enterprises are a major concern and the Communist Party and the once so-called labor union are one and the same.

The issues involved in trade negotiations have also changed dramatically. We are no longer simply negotiating tariff levels. As Professor Jeff Sachs of Columbia University said recently, "Both TPP and TTIP would be better described as multinational business agreements involving three distinct areas: international trade, cross-border investment, and international business regulation."

The TPP negotiations cover a range of subjects far beyond those negotiated in any previous multilateral negotiation, concerning everything from intellectual property and access to medicines, to financial regulations, food safety measures, basic labor and environmental standards, cross-border data flows, and state-owned enterprises. So the economics of trade have changed, and the trade negotiations themselves have changed, and so too has the congressional role.

In recent years some of us have had to take it upon ourselves to rewrite the rules of trade negotiations. In 2006 when the Democrats took the majority in the U.S. House, we made it clear to the Bush administration that we were not going to consider the Peru, Panama, Colombia, and Korea Free Trade Agreements as negotiated. Each of them would need to be fixed.

CHARLES RANGEL and I worked with our House Democratic colleagues to co-author what became known as the May 10th Agreement on labor and environmental standards in trade agreements. For the first time, fully enforceable labor and environmental standards would be placed in our trade agreements on equal footing with every other commercial provision. The May 10th Agreement also included important provisions on medicines, investment, and government procurement.

After decades of leading the fight to include worker rights provisions in trade agreements, I considered at the time, and still do today, the May 10th Agreement to be a major breakthrough. In the case of our trade agreements with Peru, Panama, and Colombia, their labor laws were changed to come into compliance with ILO standards before the Congress voted.

Then in 2011, with the Korea FTA, working on a bipartisan basis with then-chairman Dave Camp, with Ford Motor, and the UAW, we urged the Obama administration to go back and renegotiate the specific automotive market opening measures with Korea. And they did so, helping to garner broad bipartisan support in Congress.

Mr. Speaker, we established the foundation for progressive trade policy. We saw the value of intense congressional involvement to improve trade agreements. We want to make sure it is built upon, not eroded.

Mr. Speaker, now we are facing the largest multilateral trade negotiations since the Uruguay Round. The TPP has the potential to raise standards and open new markets for U.S. businesses, workers, and farmers—or lock in weak standards, uncompetitive practices, and a system that does not spread the benefits of trade, affecting the paychecks of American families. Once the U.S. lowers its own tariffs as broadly as contemplated in TPP, we will no longer have the leverage to bring about lasting change in other countries.

In January, I described what I believed to be an effective way to resolve outstanding issues in the TPP negotiations. I believed that achieving these outcomes could lead to a landmark TPP agreement worthy of major bipartisan support and mine. Unfortunately, in 4 months, none of these suggestions has been taken on by our negotiators.

Unfortunately, Mr. Speaker, the Hatch-Wyden-Ryan trade promotion authority fails to put TPP on the right track or to help Congress do so. Chairman RYAN and Senator CRUZ wrote an op-ed entitled, “Putting Congress in Charge on Trade.” Senator HATCH declared TPA to include “strict negotiating objectives” that give the American people a voice on trade priorities. But saying it is so doesn’t make it so.

On all the major issues in the negotiations, the negotiating objectives are obsolete or woefully inadequate. They are basically a wish list. And even worse, at the end of the negotiation, TPA allows the President to certify

whether his own negotiators achieved the wish list. And the provisions relating to congressional withdrawal of TPA are meaningless. They are never going to be used because they are unusable.

The Hatch-Wyden-Ryan TPA gives up congressional leverage at exactly the wrong time. Instead of pressing USTR to get a better agreement or signaling to our negotiating partners that Congress will only accept an agreement that ensures reciprocity and helps to spread the benefits of trade, the Hatch-Wyden-Ryan TPA puts Congress in the backseat and greases the skids for an up-or-down vote after the fact. Real congressional power is not at the end of the process; it is right now, when the critical outstanding issues are being negotiated.

Mr. Speaker, we must meaningfully address currency manipulation—protracted, large-scale, official, one-way intervention in the currency markets to weaken a currency for the purpose of boosting exports and limiting imports. Currency manipulation has cost the U.S. millions of jobs over the past decade and a half. Many people had trouble finding new jobs or had to accept jobs at lower wages.

China manipulated its currency most dramatically in this time period, accumulating the largest stock of foreign exchange reserves the world has ever known. In earlier episodes, Japan, South Korea, and others manipulated their currencies on a protracted, grand scale. Japan’s currency manipulation and other trade-distorting practices kept its auto and other markets closed while Japan had access to a very open U.S. market. This one-way trade decimated the U.S. tool and die industry and seriously injured other segments of the auto industry, including U.S. automakers themselves.

The International Monetary Fund has up-to-date guidelines that define currency manipulation and are intended to prevent it. There is nothing wrong with the spirit or even the letter of those guidelines. Unfortunately, the IMF cannot enforce those guidelines because currency manipulators are able to essentially stall action in that forum.

Arguments that prohibiting currency manipulation in TPP is impossible, for technical or political reasons, remind us of previous claims about trade agreements not being able to help defend forests or discourage child labor. For example, some people—prominent people—have asserted that U.S. monetary policy would be put at risk if currency is included in TPP. I responded to that argument in a highly detailed blog months ago.

Mr. Speaker, I would like to include that in the RECORD.

[From the Huffington Post Blog Post, Feb. 6, 2015]

THE NEED TO ADDRESS CURRENCY MANIPULATION IN TPP, AND WHY U.S. MONETARY POLICY IS NOT AT RISK

(By Rep. Sander Levin)

Over the past decade, currency manipulation by foreign governments has resulted in an increase in unfairly traded imports into the United States and has made it more difficult for U.S. exporters to compete in foreign markets. The practice has cost U.S. workers between one million and five million jobs—and is responsible for as much as half of excess unemployment in the United States. It has contributed to stagnant wages and to inequality in the United States. And it contributed to the global financial crisis.\*

Bipartisan majorities in the House and the Senate have urged the Administration to include strong and enforceable currency obligations in the Trans-Pacific Partnership (TPP), which includes a number of former currency manipulators, such as Japan. Other countries interested in joining TPP in the future—such as China, Korea, and Taiwan—are also current or former currency manipulators.

The IMF already prohibits currency manipulation and has developed guidelines to define when it occurs. The problem is that the IMF lacks an enforcement mechanism.

I have proposed taking the existing IMF guidelines, building upon them, and establishing an enforcement mechanism through the TPP. Other groups and economists, such as the American Automotive Policy Council (AAPC) and Fred Bergsten of the Peterson Institute, have tabled similar proposals. Economists on the right and left support including currency disciplines in TPP. And the Commission on Inclusive Prosperity recently stated: “New trade agreements should explicitly include enforceable disciplines against currency manipulation that appropriately tie mutual trade preferences to mutual recognition that exchange rates should not be allowed to subsidize one party’s exports at the expense of others.” Currency manipulation must become a subject in the TPP negotiations.

A chief concern about including strong and enforceable currency disciplines in TPP is that U.S. monetary policy could be successfully challenged by our trading partners, given that our expansionary monetary policy (in the form of ‘quantitative easing’) may have had the secondary effect of weakening the dollar. What follows is a factual response to that concern.

Again, my proposal is to take the IMF guidelines and make them enforceable. Under the IMF guidelines, currency manipulation is about government interventions in the foreign exchange markets, not about other policies that may have a secondary impact on foreign exchange rates. The IMF guidelines clearly distinguish between currency manipulation—government intervention in foreign exchange markets—and monetary policy.

Article IV of the IMF’s Articles of Agreement states that “each member shall . . . avoid manipulating exchange rates . . . to gain an unfair competitive advantage over other members.” The IMF has gone on to provide seven factors in its Guidelines to determine whether a country is manipulating its currency. The following review of each factor identified in those guidelines demonstrates that U.S. monetary policy, including quantitative easing, cannot be described as a form of currency manipulation.

Factor 1: Protracted Large-Scale Intervention, in One Direction, in Currency Markets. The United States intervenes in the currency market less than almost any other

country in the world. The United States has only intervened in the currency markets a total of three days since the late 1990s: June 17, 1998 (during the Asian exchange rate/financial crisis); September 22, 2000 (after the euro was introduced and concerns grew over the euro's significant depreciation against the dollar); and March 18, 2011 (in connection with a Japanese earthquake and tsunami). These three interventions over nearly 20 years cannot be described as "protracted" interventions. Compare this record with, for example, China's interventions over the past decade, which have occurred almost daily, and almost always in the same direction, to weaken their currency.

The circumstances surrounding these three interventions are consistent with the Federal Reserve's Foreign Currency Directive: interventions "shall generally be directed at countering disorderly market conditions." They are therefore not consistent with the objective of "gaining an unfair competitive advantage" over its trading partners, which is what currency manipulation is about. In fact, the IMF recommends and encourages members to intervene "to counter disorderly conditions." It is also worth noting that in these three instances, the United States coordinated its intervention with the other countries involved, again demonstrating that the action was not taken to gain a competitive advantage. Indeed, in all three cases the other country requested the intervention of the United States.

While the United States has a flexible exchange rate (i.e., it lets the market determine its value), it is also important to note that the IMF Guidelines do not prevent other countries from establishing a fixed or managed exchange rate. The Guidelines only provide that the rate cannot be set at a consistently artificially low level (i.e., countries may engage in "protracted, large scale" interventions, so long as all of these interventions are not all in the same "direction").

Factor 2: Excessive Accumulation of Foreign Exchange Reserves.

Despite the fact that the United States has the largest or second largest economy in the world, the United States holds fewer foreign exchange reserves than Thailand, Algeria, and Saudi Arabia, among others. Further, China has 25 times as many foreign exchange reserves (nearly \$4 trillion) as the United States (\$126 billion).

Economists generally use four benchmarks, cited by Treasury in 2006 and 2014 reports, to determine whether a country's reserves are excessive. U.S. reserves are well below each benchmark:

Benchmark #1—Reserves may be excessive if they exceed 100% of short-term external debt (commonly referred to as the "Guidotti-Greenspan Rule"). U.S. reserves are equal to 2% of its short-term external debt (\$1.2 trillion). If only taking into account debt denominated in foreign currencies, U.S. reserves would equal 38% of short-term debt. Note, however, that this benchmark was designed with emerging markets in mind, not the U.S. economy.

By way of comparison, China's reserves are about 700% (i.e., seven times greater than) its short-term external debt.

Benchmark #2—Reserves are excessive if they exceed 5-20% of money supply, commonly referred to as M2. U.S. reserves are 1.1% of U.S. M2 (\$11.7 trillion). China's reserves are 43% of its M2.

Benchmark #3—Reserves are excessive if they exceed 20% of GDP. U.S. reserves are less than 1% of U.S. GDP (around \$17 trillion). China's reserves are 42% of its GDP.

Benchmark #4—Reserves are excessive if they exceed 3-4 months of imports. U.S. reserves equal less than a single month of U.S.

imports (about \$200 billion). China's reserves equal 23 months of its imports.

Factor 3: Restrictions on/Incentives for Transactions or Capital Flows for Balance of Payments Purposes.

The United States has one of the least restrictive regulatory structures in the world concerning the free flow of capital. In fact, the World Economic Forum ranks the United States first in the world in terms of capital account liberalization and second in the world under a more general "financial development" index.

Factor 4: Encouragement of Capital Flows through Monetary Policy for Balance of Payments Purposes.

This is the only guideline that even mentions monetary policy. And while the United States—and every other country in the world—does have a monetary policy, the purpose of U.S. monetary policy is neither to encourage capital flows nor to achieve a balance in payments. The goals of U.S. monetary policy are spelled out in the Federal Reserve Act, which specifies that the Board of Governors and the Federal Open Market Committee should seek "to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates."

Indeed, the IMF has explicitly supported U.S. monetary policy (including each round of quantitative easing since the "Great Recession"). As the IMF said in its most recent report "[IMF] Directors agreed that the current highly accommodative stance of monetary policy is appropriate, consistent with the Federal Reserve's objectives of maximum employment and price stability." The IMF has also noted that U.S. monetary policy has been good for other nations ("positive spillover effects") because it has helped to sustain global growth. Similarly, the G-20 (which includes China, Japan, Korea, the United States, and three other TPP countries) has distinguished between monetary policy and exchange rate policy—and has recognized "the support that has been provided to the global economy in recent years from accommodative monetary policies, including unconventional monetary policies."

Factor 5: Fundamental Exchange Rate Misalignment.

If anything, the U.S. dollar is properly valued or even overvalued, not undervalued, according to the most recent IMF data and estimates. Further, given the continued weakening of the yen and euro, many expect the dollar to further strengthen in value in 2015.

Factor 6: Long and Sustained Current Account Surpluses.

The United States has had just one current account surplus since 1981. In fact, the United States has been running large current account and trade deficits for almost four decades. Indeed, those imbalances are a major cause of concern to many economists—and currency manipulation by other countries has contributed substantially to the U.S. trade deficits in recent years.

Factor 7: Large External Sector Vulnerabilities from Private Capital Flows.

While the United States does have external sector vulnerabilities (i.e., private and public sector debt owed to foreigners), as reflected in the large current account deficit, much of those vulnerabilities stem from purchases of U.S. debt by foreign governments—not private capital flows. And much of those purchases by foreign governments are the result of foreign government intervention in the currency markets that result in the accumulation of foreign reserves. Thus, if anything, this factor, like Factor 6, tends to suggest that the United States is a casualty of other governments' currency manipulation, not that it is manipulating itself.

The IMF Guidelines demonstrate that the United States is not manipulating its cur-

rency and would not be at risk of losing a dispute. The far greater risk is that more middle class jobs will be lost in the United States as a result of foreign governments' currency manipulation. We need strong and enforceable disciplines in TPP to help prevent that from happening.

ENDNOTE

\* China's currency manipulation "is arguably the most important cause of the financial crisis. Starting around the middle of this decade, China's cheap currency led it to run a massive trade surplus. The earnings from that surplus poured into the United States. The result was the mortgage bubble." Sebastian Mallaby, "What OPEC Teaches China," *Washington Post* op-ed (Jan. 2009). The Bush Administration White House also drew the connection: "the President highlighted a factor that economists agree on: that the most significant factor leading to the housing crisis was cheap money flowing into the U.S. from the rest of the world, so that there was no natural restraint on flush lenders to push loans on Americans in risky ways. This flow of funds into the U.S. was unprecedented." Statement by White House Press Secretary Dana Perino (Dec. 2008). Most of the cheap money flowing into the United States came from foreign governments (not the private sector) accumulating foreign exchange reserves and other official assets. See Joseph E. Gagnon, "Global Imbalances and Foreign Asset Expansion by Developing-Economy Central Banks," *Peterson Institute for International Economics* (Mar. 2012).

Mr. LEVIN. Mr. Speaker, I have seen no serious rebuttal of the points I made in that post or to similar and related points made by Simon Johnson, Fred Bergsten, and many other notable economists ranging from Art Laffer to Paul Krugman. Nevertheless, those who oppose currency disciplines continue to raise this false argument.

Mr. Speaker, TPP should address instances in which countries buy large amounts of foreign assets over long periods of time to prevent an appreciation of their exchange rate despite running a large current account surplus. The Federal Reserve does not engage in such practices. That is why the U.S. already agreed to and even insisted upon what is in the current IMF guidelines.

And now there is the claim that including currency disciplines in TPP would be a poison pill and that our trading partners would walk away from the table. There is no way to accurately judge this issue until it is properly brought to the negotiating table. To the contrary, the fact is that the administration says this only creates the risk of a self-fulfilling prophecy.

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It is irresponsible to make this claim. Indeed, our trading partners in TPP would greatly benefit from these disciplines. Many of them are the victims of manipulation in every bit as much as we are.

A progressive trade agreement for workers and the middle class must address currency manipulation, which has caused millions of job losses and contributed to waste stagnation over the last decade. President Obama is right that we should write the rules and not accept the status quo; but, if

we fail to do address currency manipulation in TPP, we are essentially letting China write the rules and are accepting an unacceptable status quo.

It is vital that our trade agreements balance strong intellectual property rights and access to affordable, life-saving medicines. Absent a change in course, the final TPP text is likely to provide less access to affordable medicines than provided under the May 10 agreement. My staff has just reviewed a new version of the text that raises some serious new questions; but even the last version of the text raised serious concerns.

For example, developing countries would likely be required to “graduate” to more restrictive intellectual property rights standards before they become developed, a clear inconsistency with May 10. There are also a number of concerns that the TPP agreement will restrict access to medicines in the U.S. and other developed countries, for example, by encouraging second patents on similar products, by having long periods of data exclusivity for biologic medicines, by allowing drug companies to challenge government pricing and reimbursement decisions.

Oxfam, a coalition of 17 international development organizations, recently said:

TPP would do more to undermine access to affordable medicines than any previous U.S. trade agreement, and the intellectual property provisions in TPP reverse the positive step taken under the May 10 agreement in 2007 . . . and thus are a step backwards for public health.

And amFAR, the Foundation for AIDS Research, said this:

Our gains in reducing global HIV infections would never have been realized if the proposed provisions under the TPP were the intellectual property standard in 2001.

For most of the past 15 years, our trade deficit with Japan has been second only to our deficit with China, and over two-thirds of the current deficit is in automotive products.

Japan has long had the most closed automotive market of any industrialized country, despite repeated efforts by U.S. negotiators over decades to open it. At a minimum, the U.S. should not open its market further to Japanese imports, through the phaseout of tariffs, until we have time to see whether Japan has truly opened its market.

The administration has not stated a specific period of time for when the phaseout in U.S. tariffs for autos, trucks, and auto parts would begin or when they would end. The parties are also still working to address certain nontariff barriers that Japan utilizes to close their market.

The Hatch-Wyden-Ryan TPA bill broadly states that the U.S. should “expand competitive market opportunities for export of goods.” Such a broad negotiating objective provides no guidance regarding how to truly open the Japanese automotive market.

On the related issue of rules of origin, there are a number of rules of ori-

gin being negotiated in the TPP for different products, including in the sensitive textile and apparel, agricultural, and automotive sectors. Some of the rules are largely settled while others, including the rules for automotive products, remain open and controversial.

Rules of origin define the extent to which inputs from outside the TPP region—for example, China—can be incorporated into an end product for that product to still be entitled to preferential/duty-free treatment under the agreement.

The rule should be restrictive enough to ensure that the benefits of the agreement accrue to the parties to the agreement. The automotive rule of origin in TPP should be at least as stringent as the rule in NAFTA, given that TPP involves all three of the NAFTA countries, plus nine others.

The Hatch-Wyden-Ryan TPA bill provides no guidance whatsoever on any rule of origin on any product in the TPP negotiations. It appears that the U.S. and Japan will agree that Japan will reduce tariffs, but never eliminate them, on hundreds of agricultural products, far more carve-outs than under any U.S. trade agreement in the past.

Canada, on the other hand, has not put any offer on the table for dairy products, which is causing some concern in the dairy industry.

The Hatch-Wyden-Ryan TPA bill has as its objective, “reducing or eliminating” tariffs on agricultural products; thus even Japan’s opening offer, to reduce but never eliminate tariffs on nearly 600 products, satisfied this objective, demonstrating that it is meaningless.

The TPP negotiations are taking a different approach on environment than we did in the May 10 agreement and in our FTAs with Peru, Panama, Colombia, and Korea, where we stated simply that each country was obligated to implement seven multilateral environmental agreements.

TPP negotiators are trying to build the same obligations from scratch, and we still do not know if they have succeeded. Words like “endeavor” and “take steps to” are not going to lead to the revolutionary changes we have been told to expect.

The President said at Nike recently that the TPP environmental chapter would “help us do things that haven’t been done before.” Actually, we have done these things before. In May 10, Peru included a special annex on deforestation. It needs more vigorous enforcement.

The Hatch-Wyden-Ryan TPA bill is obsolete in providing instructions since the TPP is already taking a different approach. The TPA bill also does not address whether or how climate change issues should be handled in TPP, an issue raised by other countries in the TPP negotiations.

There are now more cases of private investors challenging environmental, health, and other regulations in na-

tions, even nations with strong and independent judicial systems and rule of law.

Just last month—just last month—an investor won a NAFTA ISDS case in which the government of Nova Scotia denied a permit to develop a quarry in an environmentally sensitive area.

Other investment disputes involve “plain packaging” of tobacco products in Australia aimed at protecting public health and pharmaceutical patent requirements in Canada. This issue is receiving heightened scrutiny among negotiators and from a broad range of interested parties.

Some of our TPP partners do not support ISDS or are seeking safeguards to ensure that nations preserve their right to regulate. The Economist magazine, the Cato Institute, and the Government of Germany—the birthplace of ISDS—have also recently expressed concerns with ISDS.

As far back as 2007, when the May 10 agreement was reached, we recognized growing concerns over investment and ISDS. We insisted that our trade agreements with Peru, Panama, Colombia, and Korea include new preambular language clarifying that the investment obligations in those agreements are not invented to provide foreign investors with greater substantive rights than investors have under U.S. law.

Over the past few years, our concerns over the investment text and ISDS have become even greater. Nevertheless, our negotiators have refused to include the May 10 preambular language in TPP, and the text of the investment chapter in TPP is basically the same model as adopted 10 years ago, even though conditions have changed dramatically in the past 10 years and calls for changes to or elimination of the chapter have intensified.

Despite proposals to include new safeguards in the ISDS mechanism, the administration has not made any attempts to incorporate them.

The Hatch-Wyden-Ryan TPA investment negotiating objective is the same as it was 12 years ago and, again, is obsolete.

TPP does not ensure compliance by TPP parties that have labor laws and practices that fall short of international standards contained in the May 10 agreement, even though TPP is expected to include the May 10 language.

Vietnam presents the greatest challenge we have ever had in ensuring compliance. Workers there are prohibited from joining any union independent of the Communist Party. While the administration is discussing these issues with Vietnam, Members of Congress and stakeholder advisers have not yet seen any proposal to address these critical areas.

On a recent trip to Vietnam, I met a woman who had been thrown in jail for 4 years for trying to organize workers into an independent union. We cannot simply have the right written obligation in the agreement and expect that

some future dispute settlement panel is going to ensure meaningful change on the ground for workers.

The administration has not committed to ensuring that all changes to laws and regulations are made before Congress votes, as was true with Peru, Panama, and Colombia.

The administration also does not make available to Members of Congress any “consistency plan” they are discussing with Vietnam so that we can evaluate the changes to Vietnamese laws and practices they are seeking.

From what I understand, any plan will fall far short of bringing Vietnam into compliance with basic ILO standards, as required under the May 10 agreement. For example, I am concerned Vietnam may refuse to allow industrywide unions to form, a clear inconsistency with ILO standards. Our negotiators also have refused to accept our suggestion that an independent panel be established from the beginning to ensure compliance with the labor obligations and expedite a dispute.

Without such a structure, future cases will need to be built from scratch by outside groups and submitted to the U.S. Government, a process which has taken several years for the Department of Labor to act on in Honduras and Guatemala.

The President said recently that Vietnam “would even have to protect workers’ freedom to form unions, for the first time,” but the TPP that USTR is negotiating seems far from ensuring those words will become real.

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Mexico also has a long way to go. Americans know that Mexico competes in manufacturing. According to Professor Harley Shaiken at UC Berkeley:

“Under NAFTA, the auto industry in Mexico has grown rapidly, and it is in the midst of an unprecedented expansion. Mexico assembled over 3 million vehicles in 2013—more than Canada—and exported over 80 percent of them, mostly to the U.S. Global automakers plan to invest \$6.8 billion in Mexico between 2013 and 2015. As a result, Mexico is on track to become the leading source of imported vehicles for the U.S. market by 2015, surpassing both Canada and Mexico. Moreover, Mexico exported \$44.8 billion in auto parts to the U.S. last year, more than Japan, Korea, and Germany combined.”

The wage rate in Mexico is about 20 percent of a comparable rate in the U.S.

The administration likes to say that TPP will renegotiate NAFTA. I am all for that, but, again, words in the agreement are not enough. Mexico has to change their laws and their practices. For example, they have to get rid of so-called “protection contracts” that serve to block real representation in the workplace, and they need to fundamentally reform or replace the conciliation and arbitration boards that are responsible for resolving disputes

over workplace representation and other labor issues. This is vitally important because U.S. workers compete directly with Mexican workers in critical manufacturing and other sectors. While I understand the administration has started conversations with Mexico, I am not informed of any consistency plan that would detail the changes Mexico needs to make to their laws.

TPP negotiators are also working on disciplines for state-owned enterprises, or SOEs. Countries that rely heavily on state-controlled and state-funded enterprises are able to give those champions an enormous and unfair advantage over private companies that compete against them in the marketplace.

The TPP would include disciplines on SOEs that are expected in language to go beyond anything we have ever included in past agreements, but the extent to which an SOE provision will help to level the playing field will be determined by the degree to which parties seek very broad, country-specific carve-outs for particular SOEs. As concerning, the definition of “SOEs” is too narrow, allowing enterprises that are effectively controlled by foreign governments—but where the government owns less than 50 percent of the shares—to circumvent the obligations.

There are several other TPP issues that need to be addressed. Food safety is one of them. There is a very broad consensus that not enough resources are being devoted to ensure the safety of our imports. What are we going to do about this issue? It is a real issue in the debate. Unfortunately, specific portions of the negotiations and the shortcomings in TPP are often difficult to discuss because the documents are classified.

I have not argued that the entire negotiations should be open to the public. I understand that, in a wide range of contexts, from peace negotiations to labor negotiations, it is widely assumed that negotiations at times need to be held behind closed doors, and at this point, I am not convinced that trade negotiations are different. The negotiators need to communicate frequently and effectively with stakeholders to ensure that they are seeking the right provisions in negotiations. In a number of respects, our negotiators were not doing that when the TPP negotiations were in the early or even not so early stages.

Thanks to constant pressure from Members of Congress over the past several years, we have made some progress in this regard. For example, just a couple of years ago, USTR refused to share the bracketed text—laying out the positions of various parties—with any Member of Congress. We got them to change that. Much more recently, they refused to let staff from personal offices assist their Members with the text even where the staff member had a top secret security clearance. We got them to change that.

Still, there remain unreasonable and burdensome restrictions on access to

the text. For example, Congress created a system of stakeholder advisers many years ago to provide advice to our negotiators and to Congress on the negotiations, but those advisers still can only see U.S. negotiating proposals. They cannot see the proposals of our trading partners. It is very difficult, if not impossible, for them to provide negotiating advice if they can’t know what the other side is seeking. Moreover, personal office staff with top secret security clearances still cannot see the negotiating text until the Member is present.

Let me say a few more words about this.

I am not at all confident that our negotiators are sharing with Members of Congress or the stakeholder advisers all of the texts that are being exchanged with other TPP countries. For example, we know our negotiators, as I have said, have been discussing a labor consistency plan with Vietnam for many months now at least, but there is still no text for Members of Congress to review. This is one of the major outstanding issues in TPP, and yet there is no text to review despite the fact that USTR has told us for at least a year now that the negotiations were nearly complete. At a recent meeting to discuss Vietnam, it was classified so that the status of negotiations on this issue cannot be discussed publicly. Many of us left less confident that there has been any progress in the negotiations.

Or take currency manipulation. For years, literally, we have pressed what the administration’s position is on the issue given that majorities in both the House and the Senate have urged that strong and enforceable currency disciplines be included in TPP. For years, the administration said it was still deliberating on the issue and had no answer. Now, when pushed through the TPA debate in Congress, the administration claims that they could not possibly include enforceable disciplines in TPP because they would be a poison pill.

Finally, I do not understand why the administration is selectively able to reveal to the public certain aspects that they think the public will like, but those of us who have concerns cannot reveal them. We have examples of officials revealing to the press very specific things from the negotiating text, like when tariffs will be eliminated on a particular product. In my view, as to the Environment Chapter, the problem with that chapter is that many of the verbs used in those obligations—the essence of the commitments—are very weak, but I, presumably, can’t tell you what those verbs are.

So one has a hard time understanding the rationale for this process. The way it has been handled by the administration does not make Members and other key parties real participants with a meaningful role, understanding and impacting decisions undertaken in this important negotiation.

Let me say a word regarding an issue that has come up recently. In addition to falling short in getting TPP on the right track, the TPA bill also presents dangers with other agreements. This TPA will be, essentially, in place for 6 years. It gives the President a great deal of latitude in deciding which agreements to negotiate with whatever trading partners the President wants and covering whatever subject the President wants.

Recently, Senator ELIZABETH WARREN drew heavy criticism for expressing the concern that TPA could be used by a Republican President to undermine Dodd-Frank. The concern was dismissed as speculative and desperate, but as explained below, the concern is genuine and legitimate.

In ongoing trade agreement negotiations to establish a TTIP, European officials, U.S. and European banks, and some congressional Republicans have expressed an interest in harmonizing U.S. and EU financial services in a way that would water down U.S. laws and regulations. Similarly, some Republican Presidential candidates have expressed an interest in weakening or in repealing Dodd-Frank, although not simply through the TTIP negotiations. Of course, doing so through TTIP negotiations would give the President the excuse that agreeing to weaken Dodd-Frank was simply part of a quid pro quo to get something we wanted from Europe.

According to an article from Politico: "White House and pro-trade officials on the Hill say that the fast-track bill currently before Congress includes language that expressly forbids changing U.S. law without congressional action." But this language is nothing new. Legislation to implement trade agreements typically includes similar language. The purpose of the language is simply to make clear that, under U.S. law, our trade agreements do not have "direct effect" and are not "self-executing," meaning that domestic laws and regulations need to be amended to give effect to any obligation in an international agreement.

Implementing bills typically make changes to U.S. tariff laws to comply with the tariff obligations of trade agreements, but some implementing bills make more substantial, behind-the-border changes to U.S. laws to comply with the obligations in our trade agreements. That has been true of changes to U.S. patent laws and changes to the Immigration and Nationality Act.

With all of these concerns in mind—and, above all, my determination to do everything I can to get TPP in shape to garner broad, bipartisan support in Congress—the Ways and Means Democrats offered a substitute amendment during the markup of the TPA bill. That amendment, the Right Track for TPP Act, includes negotiating instructions, not merely "negotiating objectives" like the TPA bill, on each of the 12 major outstanding issues, some of

which I have described earlier. It provides that the President will not get an up-or-down vote unless and until Congress determines that the instructions have been followed. It also includes real mechanisms to ensure that a poorly negotiated TPP agreement will not be placed on a fast track.

Regrettably, our substitute amendment was blocked in committee based on a highly questionable procedural determination from the chair. In essence, while the Republican majority was free to mark up a bill that was in both the jurisdiction of our committee and the Rules Committee, we were denied the right to do the very same thing. Our chair was concerned about stepping on the jurisdiction of the Rules Committee, and yet the Rules Committee has waived jurisdiction over the TPA bill.

As is often the case with trade debates, they become about something they are not. This debate is not about being for TPP or against. I am for the right TPP, and that is why I want Congress to be in a position to press negotiators to secure a better outcome.

This debate is not about letting China write the rules. I wrote the amendments to the bill granting China PNTR to try and ensure China did not write the rules when they entered the WTO.

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This debate is not about isolationism. Neither I nor any colleague of mine is arguing that we should pull up the drawbridge and isolate ourselves. Indeed, most of us who currently oppose TPA right now have demonstrated on a broad range of issues that we are internationalists, perhaps more so than those who support TPA.

This debate is not about national security or the pivot to Asia. I understand the national security issues. Indeed, what happened was years ago Wilbur Mills said let's take trade negotiations out of the State Department and put them in USTR in order to be sure that the economic advantages were not traded away for political advantages.

In the world today, I don't see how a trade agreement can be in our national security interest if it isn't in our economic interest. Fifty years ago, when the U.S. was an economic superpower, unlike any other nation in the world, maybe we could grant our trading partners disproportionate and nonreciprocal conditions in exchange for political advantages. That is what Wilbur Mills said. That is not the case today. Our economic security is critical to our national security.

Proponents of TPA are trying to sell TPA by selling TPP itself. Unfortunately, that is the problem. TPP is not yet on the right track. It has not earned "the most progressive trade agreement in history" moniker that the President has given it. The best course for Congress is to withhold fast track until we know TPP is on a better

course, to press the administration to work with us and really respond to our concerns by changing the course of negotiations, to send a signal to our negotiating partners that the Congress has set a high bar for negotiations, that we are demanding the best deal; and, in a number of areas, I think these countries will welcome the improvements I have suggested.

At the end of the day, the goal is to achieve a Trans-Pacific Partnership worthy of support, a TPP that spreads the benefits of trade to the broadest swath of the American public and addresses trade's negative impacts. That is really what this negotiation is all about. This is what really, really very much motivates my concern to get TPP right, not to give away our leverage until TPP is correct.

Voting now for TPA, when there is so much yet to be done to make TPP right, essentially gives away our leverage, essentially is a kind of a blank check to the administration. I feel so deeply about the importance of trade, the importance of getting it right, that I really urge that should be our focus.

So I urge my colleagues not to give away our leverage, not to vote for TPA until TPP is done correctly. That is the challenge before us. That is the challenge likely to be before the House of Representatives the week after next. That is a challenge that we must surmount. That is a challenge that we must meet. That is a reflection of the years of many of us in trying to make trade be put on the right track.

That motivated us years ago when we put together the May 10 agreement; that motivated us when we negotiated the agreement with Peru, we who negotiated it. That is our dedication. We support trade when expanded trade is shaped so that all benefit. That is not true today of this TPP, and therefore I hope my colleagues will join together in voting "no" on TPA until TPP is gotten right. That is our goal; that is our purpose—that is our only purpose—and I think that is our challenge, and I hope the week after next we are going to meet it.

I yield back the balance of my time.

#### RELIGIOUS FREEDOM

The SPEAKER pro tempore (Mr. RUSSELL). Under the Speaker's announced policy of January 6, 2015, the Chair recognizes the gentleman from West Virginia (Mr. MOONEY) for 30 minutes.

Mr. MOONEY of West Virginia. Mr. Speaker, America is a beacon of hope and opportunity to the world for a reason. Our military veterans, whom we honor this Monday during Memorial Day, put their lives on the line for our freedoms and constitutional rights. Our Founders put in place a Constitution that is inspired by the fundamental Judeo-Christian belief that men and women are created in God's image, with the right to life, property, freedom to worship, and carry out their