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(Original Signature of Member)

108TH CONGRESS  
1ST SESSION

**H. CON. RES. \_\_\_\_\_**

\_\_\_\_\_  
IN THE HOUSE OF REPRESENTATIVES

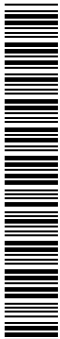
Mr. BROWN of Ohio submitted the following concurrent resolution; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**CONCURRENT RESOLUTION**

Providing that any agreement relating to trade and investment that is negotiated by the executive branch with other countries must comply with certain minimum standards.

Whereas there is general consensus among the American public and the global community that, with respect to international trade and investment rules—

- (1) global environmental, labor, health, food security, and other public interest standards must be strengthened to prevent a global “race to the bottom”;



(2) domestic environmental, labor, health, food security, and other public interest standards and policies must not be undermined, including those based on the use of the precautionary principle, the internationally recognized legal principle which holds that, when there is scientific uncertainty regarding the potential adverse effects of an action or a product or technology, governments should act in a way that minimizes the risk of harm to human health and the environment;

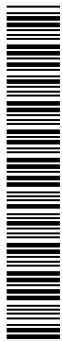
(3) provision and regulation of public services such as education, health care, transportation, energy, water, and other utilities are basic functions of democratic government and must not be undermined;

(4) raising standards in developing countries requires additional assistance and respect for diversity of policies and priorities;

(5) countries must be allowed to design and implement policies to sustain family farms and achieve food security;

(6) healthy national economies are essential to a healthy global economy, and the right of governments to pursue policies to maintain and create jobs must be upheld;

(7) the right of State and local and comparable regional governments of all countries to create and enforce



diverse policies must be safeguarded from imposed downward harmonization; and

(8) rules for the global economy must be developed and implemented democratically and with transparency and accountability; and

Whereas many international trade and investment agreements in existence and currently being negotiated do not serve these interests, and have caused substantial harm to the health and well-being of communities in the United States and within countries that are trading partners of the United States: Now, therefore, be it

1 *Resolved by the House of Representatives (the Senate*  
2 *concurring),* That any agreement relating to trade and in-  
3 vestment that is negotiated by the executive branch with  
4 other countries should comply with the following:

5 (1) REGARDING INVESTOR AND INVESTMENT  
6 POLICY.—No such agreement that includes provi-  
7 sions relating to foreign investment may permit for-  
8 eign investors to challenge or seek compensation be-  
9 cause of a measure of a government at the national,  
10 State, or local level that protects the public interest,  
11 including, but not limited to, public health, safety,  
12 and welfare, the environment, and worker protec-  
13 tions, unless a foreign investor demonstrates that  
14 the measure was enacted or applied primarily for the  
15 purpose of discriminating against foreign investors  
16 or investments.



1           (2) REGARDING SERVICES.—Any such agree-  
2           ment, to the extent applicable, shall comply with the  
3           following:

4                   (A)(i) The agreement may not discipline  
5                   government measures relating to—

6                           (I) public services, including public  
7                           services for which the government is not  
8                           the sole provider;

9                           (II) services that require extensive  
10                          regulation;

11                          (III) essential human services; and

12                          (IV) services that have an essentially  
13                          social component.

14                   (ii) The services described in subclauses (I)  
15                   through (IV) of clause (i) include, but are not  
16                   limited to, public benefit programs, health care,  
17                   health insurance, public health, child care, edu-  
18                   cation and training, the distribution of con-  
19                   trolled substances and products, including alco-  
20                   hol and tobacco and firearms, research and de-  
21                   velopment on natural and social sciences, utili-  
22                   ties including energy utilities, water, waste dis-  
23                   posal and sanitation, national security, mari-  
24                   time, air, surface, and other transportation



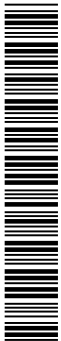
1 services, postal services, energy extraction and  
2 related services, and correctional services.

3 (B) The agreement shall permit countries  
4 that have made commitments in areas covered  
5 in subparagraph (A) to revise those commit-  
6 ments for the purposes of public interest regu-  
7 lation without financial or other trade-related  
8 penalties.

9 (C) The agreement shall ensure that rules  
10 on subsidies and government procurement fully  
11 protect the ability of governments to support  
12 and purchase services in ways that promote eco-  
13 nomic development, social justice and equity,  
14 public health, environmental quality, and  
15 human and workers' rights.

16 (D) The agreement shall make no new  
17 commitments on the temporary entry of work-  
18 ers because such policies should be determined  
19 by the Congress, after consideration by the con-  
20 gressional committees with jurisdiction over im-  
21 migration to avoid an array of inconsistent poli-  
22 cies and policies which fail to—

23 (i) include labor market tests that en-  
24 sure that the employment of such tem-



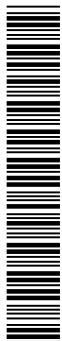
1 temporary workers will not adversely affect  
2 other similarly employed workers;

3 (ii) involve labor unions in the labor  
4 certification process implemented under  
5 the immigration program for temporary  
6 workers under section 101(a)(15)(H)(i) of  
7 the Immigration and Nationality Act, in-  
8 cluding the filing by an employer of an ap-  
9 plication under section 212(n)(1) of that  
10 Act; and

11 (iii) guarantee the same workplace  
12 protections for temporary workers that are  
13 available to all workers.

14 (E) The agreement shall guarantee that all  
15 governments that are parties to the agreement  
16 can regulate foreign investors in services and  
17 other service providers in order to protect pub-  
18 lic health and safety, consumers, the environ-  
19 ment, and workers' rights, without requiring  
20 the governments to establish their regulations  
21 to be the least burdensome option for foreign  
22 service providers.

23 (3) REGARDING POLICIES TO SUPPORT AMER-  
24 ICAN WORKERS AND SMALL, MINORITY, AND WOMEN-  
25 OWNED BUSINESSES.—Any such agreement shall



1 preserve the right of Federal, State, and local gov-  
2 ernments to maintain or establish policies to support  
3 American workers and small, minority, or women-  
4 owned businesses, including, but not limited to, poli-  
5 cies with respect to government procurement, loans,  
6 and subsidies.

7 (4) REGARDING ENVIRONMENTAL, LABOR, AND  
8 OTHER PUBLIC INTEREST STANDARDS.—Any such  
9 agreement—

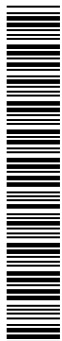
10 (A) may not supersede the rights and obli-  
11 gations of parties under multilateral environ-  
12 mental, labor, and human rights agreements;  
13 and

14 (B) shall, to the extent applicable, include  
15 commitments, subject to binding enforcement  
16 on the same terms as commercial provisions—

17 (i) to adhere to specified workers'  
18 rights and environmental standards;

19 (ii) not to diminish or fail to enforce  
20 existing domestic labor and environmental  
21 provisions; and

22 (iii) to abide by the core labor stand-  
23 ards of the International Labor Organiza-  
24 tion (ILO).



1 (5) REGARDING UNITED STATES TRADE  
2 LAWS.—No such agreement may—

3 (A) contain a provision which modifies or  
4 amends, or requires a modification of or an  
5 amendment to, any law of the United States  
6 that provides to United States businesses or  
7 workers safeguards from unfair foreign trade  
8 practices, including any law providing for—

9 (i) the imposition of countervailing or  
10 antidumping duties;

11 (ii) protection from unfair methods of  
12 competition or unfair acts in the importa-  
13 tion of articles;

14 (iii) relief from injury caused by im-  
15 port competition;

16 (iv) relief from unfair trade practices;

17 or

18 (v) the imposition of import restric-  
19 tions to protect the national security; or

20 (B) weaken the existing terms of the  
21 Agreement on Implementation of Article VI of  
22 the General Agreement on Tariffs and Trade  
23 1994, or the Agreement on Subsidies and Coun-  
24 tervailing Measures, of the World Trade Orga-  
25 nization, including through the domestic imple-



1           mentation of rulings of dispute settlement bod-  
2           ies.

3           (6) REGARDING FOOD SAFETY.—No such  
4           agreement may—

5                   (A) restrict the ability of the United States  
6           to ensure that food products entering the  
7           United States are rigorously inspected to estab-  
8           lish that they meet all food safety standards in  
9           the United States, including inspection stand-  
10          ards;

11                   (B) force acceptance of different food safe-  
12          ty standards as “equivalent”, or require inter-  
13          national harmonization of food safety stand-  
14          ards, which undermine the level of human  
15          health protection provided under domestic law;  
16          or

17                   (C) restrict the ability of governments to  
18          enact policies to guarantee the right of con-  
19          sumers to know where and how their food is  
20          produced.

21           (7) REGARDING AGRICULTURE AND FOOD SE-  
22          curity.—No such agreement may, with respect to  
23          food and other agricultural commodities—

24                   (A) contain provisions that prevent coun-  
25          tries from—



1 (i) establishing domestic and global  
 2 reserves,  
 3 (ii) managing supply,  
 4 (iii) enforcing antidumping disciplines,  
 5 (iv) ensuring fair market prices, or  
 6 (v) vigorously enforcing antitrust  
 7 laws,  
 8 in order to guarantee competitive markets for  
 9 family farmers; or

10 (B) prevent countries from developing the  
 11 necessary sanitary and phytosanitary standards  
 12 to prevent the introduction of pathogens or  
 13 other potentially invasive species which may ad-  
 14 versely affect agriculture, human health, or the  
 15 environment.

16 (8) REGARDING TRANSPARENCY.—(A) The  
 17 process of negotiating any such agreement must be  
 18 open and transparent, including through—

- 19 (i) prompt and regular disclosure of full
- 20 negotiating texts; and
- 21 (ii) prompt and regular disclosure of nego-
- 22 tiating positions of the United States.

23 (B) In negotiating any such agreement, any re-  
 24 quest or offer relating to investment, procurement,



1 or trade in services must be made public within 10  
2 days after its submission if such request or offer—

3 (i) proposes specific Federal, State, and  
4 local laws and regulations in the United States  
5 to be changed, eliminated, or scheduled under  
6 such an agreement, including, but not limited  
7 to, subsidies, tax rules, procurement rules, pro-  
8 fessional standards, and rules on temporary  
9 entry of persons;

10 (ii) proposes for coverage under such an  
11 agreement—

12 (I) specific essential public services,  
13 including, but not limited to, public bene-  
14 fits programs, health care, education, na-  
15 tional security, sanitation, water, energy,  
16 and other utilities; or

17 (II) private service sectors that re-  
18 quire extensive regulation or have an in-  
19 herently social component, including, but  
20 not limited to, maritime, air transport,  
21 trucking, and other transportation services,  
22 postal services, utilities such as water, en-  
23 ergy, and sanitation, corrections, education  
24 and childcare, and health care; or



1 (iii) proposes a discipline or process of gen-  
2 eral application which may interfere with the  
3 ability of the United States or State, local, or  
4 tribal governments to adopt, implement, or en-  
5 force laws and regulations identified in clause  
6 (i) or provide or regulate services identified in  
7 clause (ii).

8 (C) The broad array of constituencies rep-  
9 resenting the majority of the people of the United  
10 States, including labor unions, environmental organi-  
11 zations, consumer groups, family farm groups, pub-  
12 lic health advocates, faith-based organizations, and  
13 civil rights groups, must have at least the same rep-  
14 resentation on trade advisory committees and access  
15 to trade negotiators and negotiating fora as those  
16 constituencies representing commercial interests.

17 (D) Any dispute resolution mechanism estab-  
18 lished in any such agreement must be open and  
19 transparent, including through disclosure to the pub-  
20 lic of documents and access to hearings, and must  
21 permit participation by nonparties through the filing  
22 of amicus briefs, as well as provide for standing for  
23 State and local governments as intervenors.

24 (9) REGARDING GOVERNMENTAL AUTHORITY.—  
25 No such agreement may contain provisions that bind



1 national, State, local, or comparable regional govern-  
2 ments to limiting regulatory, taxation, spending, or  
3 procurement authority without an opportunity for  
4 public review and comment described in paragraph  
5 (8), and without the explicit, informed consent of the  
6 national, State, local, or comparable regional legisla-  
7 tive body concerned, through such means as is de-  
8 cided by such legislative body.

9 (10) REGARDING ACCESS TO MEDICINES AND  
10 SEEDS.—(A) No such agreement may contain provi-  
11 sions that prevent countries from taking measures to  
12 protect public health by ensuring access to medi-  
13 cines.

14 (B) No such agreement may constrain the  
15 rights of farmers to save, use, exchange, or sell  
16 farm-saved seeds and other publicly available seed  
17 varieties.

18 (11) REGARDING DEVELOPING COUNTRIES.—  
19 Any such agreement must grant special and dif-  
20 ferential treatment for developing countries with re-  
21 gard to the timeframe for implementation of the  
22 agreement as well as other concerns.

