

Richard Blumenthal
S.L.C.

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AMENDMENT NO. _____ Calendar No. _____

Purpose: To increase the public accessibility of information relating to trade negotiations.

IN THE SENATE OF THE UNITED STATES—114th Cong., 1st Sess.

H. R. 1314

AMENDMENT N^o 1297

By: Blumenthal

To: Amnt No 1221

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Page(s)

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BLUMENTHAL Sen. Brown, Sen Baldwin

to the amendment (No. 1221) proposed by Mr. HATCH

Viz:

- 1 In section 104, strike subsection (d) and insert the
- 2 following:
- 3 (d) CONSULTATIONS WITH THE PUBLIC.—
- 4 (1) TRANSPARENCY REQUIREMENTS FOR
- 5 TRADE NEGOTIATIONS.—
- 6 (A) IN GENERAL.—Except as provided in
- 7 subparagraph (C), the United States Trade
- 8 Representative shall make available to Members
- 9 of Congress and the public, through means in-
- 10 cluding publication on a publicly available Inter-

1 net website, all formal proposals advanced by
2 the United States in negotiations for a trade
3 agreement pursuant to this title not later than
4 5 calendar days after the earliest of—

5 (i) the date on which the proposal is
6 shared with another party to the negotia-
7 tions;

8 (ii) the date on which the proposal is
9 submitted to an advisory committee estab-
10 lished under section 135 of the Trade Act
11 of 1974 (19 U.S.C. 2155); or

12 (iii) the date on which the proposal is
13 cleared through the interagency process es-
14 tablished to approve official positions in
15 trade negotiations.

16 (B) CLASSIFIED PROPOSALS SHARED WITH
17 FOREIGN GOVERNMENTS.—If text proposed by
18 the United States Trade Representative to be
19 included in a trade agreement is classified and
20 is shared with any official of a foreign govern-
21 ment, that text shall be declassified when the
22 text is shared with that official and made avail-
23 able to Members of Congress and the public in
24 accordance with subparagraph (A).

1 (C) EXCEPTIONS.—The Trade Representa-
2 tive shall not be required to make available
3 under subparagraph (A)—

4 (i) any formal proposal advanced by
5 the United States in negotiations for a
6 trade agreement that is intended to be con-
7 tained in the provisions of the agreement
8 relating to market access for goods and re-
9 lates to such market access; or

10 (ii) subject to subparagraph (B), any
11 classified information that does not con-
12 stitute a formal proposal advanced by the
13 United States in negotiations for a trade
14 agreement.

15 (D) FORMAL PROPOSAL DEFINED.—

16 (i) IN GENERAL.—In this paragraph,
17 the term “formal proposal advanced by the
18 United States in negotiations for a trade
19 agreement”—

20 (I) means any proposed lan-
21 guage, position paper, summary of po-
22 sition, or other document that—

23 (aa) includes analysis or
24 other language intended to in-

1 form negotiations for a trade
2 agreement;

3 (bb) is offered or intended
4 to be offered on behalf of the
5 United States to any party to the
6 negotiations; and

7 (cc) reflects the official posi-
8 tion of the United States with re-
9 spect to the negotiations; and

10 (II) includes any communication
11 regarding the negotiations that is
12 shared with other parties to the nego-
13 tiations after being cleared through
14 the interagency process established to
15 approve official positions in trade ne-
16 gotiations or that is submitted to an
17 advisory committee established under
18 section 135 of the Trade Act of 1974
19 (19 U.S.C. 2155).

20 (ii) EXCLUSION.—The term “formal
21 proposal” does not include any communica-
22 tion between negotiators or other officials
23 participating in negotiations for a trade
24 agreement that is not intended to reflect
25 the official position of the United States,

1 including any communication not cleared
2 through the interagency process described
3 in clause (i)(II).

4 (E) EFFECTIVE DATE.—

5 (i) IN GENERAL.—The provisions of
6 this paragraph apply with respect to nego-
7 tiations for a trade agreement initiated on
8 or after or pending on the date of the en-
9 actment of this Act.

10 (ii) PENDING TRADE AGREEMENTS.—

11 In the case of a trade agreement pending
12 on the date of the enactment of this Act,
13 the President shall, not more than 30 cal-
14 endar days after such date of enactment,
15 make available to Members of Congress
16 and the public all formal proposals that
17 have been advanced by the United States
18 in negotiations for that trade agreement in
19 accordance with this paragraph.

20 (F) SHARING OF INFORMATION WITH
21 MEMBERS OF CONGRESS AND STAFF.—Nothing
22 in this section shall be construed to prevent or
23 otherwise limit the sharing of classified or un-
24 classified information with Members of Con-

1 gress and staff in accordance with subsections
2 (a) and (b).

3 (2) GUIDELINES FOR PUBLIC ENGAGEMENT.—

4 (A) IN GENERAL.—In carrying out the re-
5 quirements of paragraph (1), the United States
6 Trade Representative, in consultation with the
7 chairmen and the ranking members of the Com-
8 mittee on Ways and Means of the House of
9 Representatives and the Committee on Finance
10 of the Senate, respectively—

11 (i) shall, not later than 120 days after
12 the date of the enactment of this Act, de-
13 velop written guidelines on public access to
14 information regarding negotiations con-
15 ducted under this title; and

16 (ii) may make such revisions to the
17 guidelines as may be necessary from time
18 to time.

19 (B) PURPOSES.—The guidelines developed
20 under subparagraph (A) shall—

21 (i) facilitate transparency;

22 (ii) encourage public participation;

23 and

24 (iii) promote collaboration in the ne-
25 gotiation process.

1 (C) CONTENT.—The guidelines developed
2 under subparagraph (A) shall include proce-
3 dures that—

4 (i) provide for rapid disclosure of in-
5 formation in forms that the public can
6 readily find and use; and

7 (ii) provide frequent opportunities for
8 public input through Federal Register re-
9 quests for comment and other means.

10 (D) DISSEMINATION.—The United States
11 Trade Representative shall disseminate the
12 guidelines developed under subparagraph (A) to
13 all Federal agencies that could have jurisdiction
14 over laws affected by trade negotiations.