



# Strengthening America's Trade Priorities

Congressman Earl Blumenauer ■ Third District of Oregon ■ [www.blumenauer.house.gov](http://www.blumenauer.house.gov)

## **The GREEN 301 Act:**

***By ensuring U.S. companies aren't forced to play by a different and more costly set of rules abroad, we can bolster environmental protections and best practices, as well as U.S. exports.***

When a foreign country selectively enforces its laws, a two-tiered system is created for businesses. In tier one are those who get special treatment when it comes to regulatory and legal compliance, leading to money and time saved, and in turn a competitive advantage. In tier two—often made up of U.S.-owned companies who want to comply with all local laws—companies are heavily scrutinized and require more resources to do the same work as tier one organizations because while compliance is important, it's costly.

The problem is proliferating. A survey conducted this year by the American Chamber of Commerce in China found that 57 percent of U.S. companies operating in China believed they were being unfairly targeted compared to their local competition and that the problem was getting worse.

The U.S. attempts to limit these unfair double standards in its trade agreements. Dozens of countries, however, fall outside our trade commitments. To level the playing field in these countries, and to stop a race to the bottom, Congress included Section 301 in the Trade Act of 1974. This section authorizes the U.S. to take action to remove “any act, policy, or practice of a foreign government that . . . is unjustified, unreasonable, or discriminatory, and that burdens or restricts U.S. commerce.” Congress later expanded Section 301 to deal specifically with IP issues and later amended it to address labor standards.

While Section 301 has helped U.S. businesses, it's time for Section 301 to be strengthened once again to address the unfair enforcement of environmental laws. Oregon and other states dependent on international commerce are severely disadvantaged when trading partners hold U.S. companies to a different set of standards while simultaneously allowing local competition to skirt environmental laws. When any company – be it U.S. or domestic – violates an environmental law of the country in which they're operating, they should be held accountable. Too often, however, it's only U.S. companies who are penalized when deviating from these laws. Green 301 provides USTR with the tools to ensure that the law is applied to everyone so that all bad actors are held accountable, overall levels of compliance are raised, and the tables are turned to ensure good actors are not penalized for doing what's right and following the rules.

## **The Trade STRONGER Act:**

***Create an enforcement trust fund using some of the penalties paid to the U.S. by trade cheaters and manipulators abroad who have been caught, to more effectively enforce and implement our trade agreements.***

As trade agreements have evolved to more accurately reflect the needs of international commerce, they've become more complex. This complexity limits the U.S. ability to simultaneously oversee, implement, and enforce these agreements. To date, the U.S. has been challenged to manage this expensive, time consuming process.

For example, in Peru, the US-Peru Free Trade Agreement went into effect in 2009 containing some of the strongest environmental protection and conservation provisions ever included in a trade pact. Implementation, however, has been glacial and has faced constant efforts to roll back progress.

Even where there is a commitment to enforcing trade provisions, resources have not kept pace with the scope and complexity of our trade agreements. As a result, we have not secured the full value of our agreements to the disadvantage of our businesses and workers. Looking ahead, some TransPacific Partnership countries will need significant capacity building and technical assistance if they're to meet their new commercial, environmental, and labor obligations.

The *STRONGER (Supplemental Trade Review, Oversight, Noncompliance and General Enforcement Resources) Act of 2015* would create a fund jointly managed by the Office of the United States Trade Representative and the Department of State, authorized for a narrow set of uses aimed at the enforcement and implementation of our trade agreements.

*For more information on Congressman Blumenauer's trade agenda, contact Michael Harold in DC at (202) 225-4811, or visit Congressman Blumenauer's website at <http://blumenauer.house.gov/>.*



# Strengthening America's Trade Priorities

Congressman Earl Blumenauer ■ Third District of Oregon ■ [www.blumenauer.house.gov](http://www.blumenauer.house.gov)

The Enforcement Fund would receive a small fraction of our annual AD/CVDs—capped at \$30 million, with a maximum transfer of \$15 million annually—for the enforcement and implementation of our trade agreements. Specifically, U.S. agencies would be authorized to use Enforcement Fund resources for: enforcement of current and future FTAs; implementation and enforcement of WTO obligations to which the US is a party; capacity building focused on the effective implementation FTA partner commitments, with priority given to environmental and labor commitments; monitoring and evaluation of US capacity building efforts to ensure investments are spent wisely; and clarifying that none of the Funds resources could be used for negotiating new trade agreements.

## **Strengthen Conservation Provisions in TPP Environment Chapter:**

***This is the best opportunity the U.S. will have to put in place a set of rules capable of dismantling the black market trade – and related criminal and terrorist networks – in illegally sourced plants, wildlife and living marine resources.***

The TPP negotiations provide a unique opportunity to raise environmental standards among countries that account for nearly 40 percent of the world's economy. We cannot lose this historic chance to enact the strongest global environmental protections.

The areas within the TPP environment chapter that could have the greatest impact if strengthened are the conservation measures. A final TPP agreement should include conservation obligations that prohibit trade in illegally-sourced timber, wildlife, and living marine resources. A strong prohibition section in the TPP environment chapter would not only protect the environment, but U.S. jobs, while at the same time eliminate a black market that's often used to finance criminal activity and terrorist networks.

Illegal timber alone costs the U.S. timber industry \$1 billion every year due to depressed, artificial prices. The illegal, unregulated, and unreported fishing market is valued up to \$23.5 billion annually, which undercuts the prices our fishermen receive for their honest catch. Wildlife trafficking has grown into the fourth-largest type of illegal trade in the last 5 years, with \$19 billion in annual sales.

A firm prohibition within the TPP environment chapter on the trade in illegally sourced forest, wildlife, and living marine resources protects jobs, improves our national security, and represents an historic opportunity to strengthen our markets while dealing a severe blow to the black market.

## **The OUTDOOR Act:**

***Congress should not hesitate to refine our tariff code when small adjustments would improve innovative manufacturing and value for consumers, without impacting domestic producers.***

Trade Promotion Authority, or any other trade package that moves with TPA, is the perfect opportunity to move bipartisan and commonsense trade legislation that benefits U.S. consumers. The U.S. Optimal Use of Trade to Develop Outerwear and Outdoor Recreation (U.S. OUTDOOR) Act, legislation to reduce tariffs on recreational performance apparel, would make products like jackets and pants more affordable for American families, encourage greater participation in outdoor activities, and help an industry that directly and indirectly supports 12 million American jobs to better compete in global markets.

While the average U.S. tariff is less than 4 percent, in the Harmonized Tariff Schedule (HTS), some current duties on recreational performance apparel are more than seven times as high, at 28.2 percent. The OUTDOOR Act would end the "hidden tax" on recreational performance apparel by updating the HTS breakouts for these goods and making these items duty-free. This bill is a needed update to the antiquated, unreasonably high tariffs set on recreational performance apparel that will enable families to more affordably get outside and do the things they love.

*For more information on Congressman Blumenauer's trade agenda, contact Michael Harold in DC at (202) 225-4811, or visit Congressman Blumenauer's website at <http://blumenauer.house.gov/>.*



# Strengthening America's Trade Priorities

Congressman Earl Blumenauer ■ Third District of Oregon ■ [www.blumenauer.house.gov](http://www.blumenauer.house.gov)

## **The RAIN Act:**

***Congress should not hesitate to refine our tariff code when small adjustments would improve innovative manufacturing and value for consumers, without impacting domestic producers.***

The Recreational Athletic In-novative Shoes (RAIN) Act would update an outdated portion of the Harmonized Tariff Schedule (HTS) that is not only stifling innovation by the U.S. outdoor industry, but is also needlessly driving up costs for consumers.

Until it's updated, our innovative footwear industry must daily face an unreasonable reality at our borders: when two identical-looking running shoes are imported, one shoe is charged a 20 percent duty while the other is charged a higher 37.5 percent duty. The latter category of athletic shoes must pay an additional 17.5 percent for a single reason – it contains a waterproof liner.

Originally, this portion of the HTS was intended to only cover things like tall rubber boots. As the footwear industry has evolved, however, the HTS has failed to do the same and as a result what most Americans would consider an “athletic” shoe continues to be classified as “protective” only because it contains a waterproof lining.

Since CBP cannot simply broaden its interpretation of the HTS's current athletic definition, legislation is needed to update the athletic footwear definition to include some hiking, trekking and trail running shoes. The idea is simple and the reforms are basic, but the impacts would be significant for innovators and consumers alike.

## **Increasing Trade Efficiency for Businesses and Value for Consumers:**

***Congress must ensure that Trade Promotion Authority is focused on improving trade efficiency and reducing bureaucratic red tape for our importers and exporters at all borders, be it at home or abroad.***

Success in the global marketplace is no easy task, especially for small- and medium-sized businesses. Exposure to global competition and new markets is fraught with challenges and the last thing our exporters and importers should be worrying about is bureaucratic delay, redundant paperwork, and confusing procedures at the border. It adds cost and undercuts their ability to compete. That is why reform in this space is so critical.

Improved trade logistics – commonly referred to as “trade facilitation” – makes it easier for businesses to navigate customs, increase exports, navigate regulations, expedite shipping, and shorten supply chains. Helping countries put into place just a portion of “best practices” in trade facilitation would add 4.7 percent to world GDP.

Recently, the World Trade Organization (WTO) concluded the Trade Facilitation Agreement, the first multilateral agreement to be reached since the WTO was created over two decades ago. This significant accomplishment reflects the broad interest in, and commitment to, increasing trade efficiency and economic activity that transcends borders and politics. The U.S. has led this effort, and Congress should bolster our Trade Representatives commitment through Trade Promotion Authority. (TPA)

TPA must provide a comprehensive set of negotiating objectives that go well beyond a single agreement. It must also strengthen our hand and refine our focus at the WTO. One of the best ways to do this is by ensuring the Trade Facilitation Agreement is adopted by the required two thirds of WTO members. That effort is best served by the U.S. continuing to lead by example, this time with rapid implementation of the Agreement. Congress can play a constructive role by including clear benchmarks and guidelines for the implementation of our Trade Facilitation commitments in a TPA.

*For more information on Congressman Blumenauer's trade agenda, contact Michael Harold in DC at (202) 225-4811, or visit Congressman Blumenauer's website at <http://blumenauer.house.gov/>.*