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Folder Title: 08/06/2002 [H.R. 3009] [771371] [1]

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DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Memorandum	Trade Act of 2002 - To: POTUS - From: Mitchell E. Daniels, Jr.	7	08/05/2002	P5;
002	Letter	[Views of the Department of the Treasury] - To: Mitchell E. Daniels, Jr. - From: David D. Aufhauser	1	08/02/2002	P5;
003	Memorandum	Trade Act of 2002 - To: POTUS - From: Mitchell E. Daniels, Jr.	7	08/05/2002	P5;
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6360

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
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Barcode Scanning Sheet

Collection Code: **SECLOG**

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Subject/Description: **OVERSIZE ATTACHMENT # 9467 NARA # 9358 BOX 3 FOLDER 4B BILL FILES RECEIVED FROM THE OFFICE OF THE EXECUTIVE CLERK - AUG 06 02 ENROLLED BILL H.R. 3009 □ TRADE ACT OF 2002**

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This Document was withdrawn on 9/26/2013 by TDF

Attachment

Other Significant Provisions of H.R. 3009

Trade Promotion Authority (TPA)

Negotiating Objectives. The enrolled bill stipulates nine "overall" U.S. trade negotiating objectives for trade agreements. These objectives are generally similar to the objectives of the Omnibus Trade and Competitiveness Act of 1988, with additional objectives regarding economic growth, worker rights, and environmental protection. H.R. 3009 also includes seventeen "principal" U.S. negotiating objectives regarding trade barriers and other trade distortions, trade remedy laws, trade in services, foreign investment, intellectual property, transparency, anti-corruption, border tax, improvement of the World Trade Organization (WTO) and other multilateral and bilateral trade agreements, foreign regulatory practices, electronic commerce, trade in agriculture and textiles and apparel, dispute settlement and enforcement of trade agreements, WTO extended negotiations, and enforcement of labor and environmental laws. The enrolled bill also requires the President to promote certain priorities, including (1) greater cooperation with the International Labor Organization (ILO), and (2) establishing consultative mechanisms to promote respect for core labor standards, to prohibit the worst forms of child labor, and to develop and implement standards for protecting the environment and human health based on sound science. The bill includes requirements for reviews and reports related to environment, labor, and employment issues.

Congressional Consultation and Notification Requirements. H.R. 3009 establishes a number of requirements that the President consult with Congress. Specifically, it would require the President to provide written notice at least 90 calendar days before entering into negotiations and to consult with the relevant committees and a new Congressional Oversight Group (described below) before and after providing notice. This is separate from the 180-day notice required for any negotiating proposal that may alter U.S. trade remedy laws (discussed in the Memorandum). The bill would establish special consultation requirements for negotiations concerning tariff reductions for agriculture products and several additional requirements, including advice from the U.S. International Trade Commission (USITC), on negotiations relating to import sensitive agricultural products and on trade remedy provisions on seasonal and perishable agricultural products. Additional consultation requirements also apply to textiles and apparel, and fish and shellfish products.

Before entering into any trade agreement, the President would be required to consult with the relevant Committees and the Oversight Group concerning: (1) the nature of the agreement, (2) how and to what extent the agreement would achieve the applicable purposes, policies, and objectives set forth in H.R. 3009; and (3) matters relating to implementation, including the general effect of the agreement on U.S. laws. In addition, at least 90 days before entering into a trade agreement, the President would be required to ask the USITC to assess the agreement, including the likely impact of the agreement on the U.S. economy as a whole, specific industry sectors, and U.S. consumers. That report would be due 90 days after the President enters into the agreement.

At least 60 days before signing an agreement, the bill requires the President to submit to Congress a preliminary list of existing laws that would have to be amended in order to bring the United States into compliance with agreement.

H.R. 3009 exempts from the requirement to consult prior to initiating negotiations, agreements that: (1) are entered into under the auspices of the WTO; (2) are entered into with Chile or Singapore; or (3) establish a Free Trade Area for the Americas. The President is required to provide notification of these ongoing negotiations as soon as feasible after enactment of this bill and to consult before and after providing these notifications.

Expedited Procedures. In order to invoke the expedited trade authority legislative procedures, the President is required to submit the final text of the agreement, the implementing legislation, a statement of administrative action, and certain supporting information to Congress. The procedures of section 151 of the Trade Act of 1974 (explained as follows) would then apply. Specifically, on the same day as the President formally submits the legislation, the bill would be introduced (by request) by the Majority Leaders of the House and the Senate. After formal introduction of the legislation, the House Committees would have 45 legislative days to report the bill. The House would be required to vote on the bill within 15 legislative days after the measure was reported or discharged from the Committees. Fifteen additional days would be provided for Senate Committee consideration (assuming the implementing bill was a revenue bill), and Senate floor action would be required within 15 additional days. Accordingly, the maximum period for Congressional consideration of the implementing bill from the date of introduction would be 90 legislative days. Once the bill has been formally introduced, no amendments would be permitted either in Committee or floor action, and a straight "up or down" vote would be required.

H.R. 3009 includes procedures for the President to request an extension of the time that TPA procedures are available until June 1, 2007, for use in implementing agreements entered into before that date. These requirements include a written request and report to Congress by March 1, 2005, and several other reports, including a report from the USITC to Congress by May 1, 2005, analyzing the economic impact on the United States of all trade agreements implemented between enactment and the extension request. An extension until June 1, 2007, would be authorized unless either the House or Senate passed by June 1, 2005, a disapproval resolution. (This resolution would also be subject to the discretionary action of the House Ways and Means or Senate Finance Committees to report it out of committee.)

Congressional Oversight Group. The enrolled bill establishes a Congressional Oversight Group, comprised of the chairmen and ranking members of the Ways & Means and Finance Committees, together with three additional members of those Committees, and the chairmen and ranking members of committees with jurisdiction over laws affected by specific trade agreements. The members of the Oversight Group are to be accredited as official advisers to the U.S. delegations negotiating agreements.

H.R. 3009 requires USTR to develop written guidelines to facilitate the exchange of information between USTR and the Oversight Group. The guidelines are to provide for: regular detailed briefings; access to documents concerning the negotiations; closest practicable coordination including at negotiation sites; and consultations regarding compliance and enforcement after an agreement is concluded.

Additional Implementation and Enforcement Requirements. H.R. 3009 requires the President to submit to Congress a plan for implementing and enforcing any trade agreement negotiated under the bill's authority. The plan, which is to be submitted simultaneously with the text of the agreement, is to include a description of Executive Branch personnel to enforce the agreement; Customs Service infrastructure requirements; the impact on State and local governments; and the costs associated with these requirements. The bill would also require that the President include a request for these resources in the first budget submitted after this plan is submitted.

Proclamation Authority. H.R. 3009 authorizes the President to proclaim, without Congressional approval, duty modifications subject to certain limitations. These limitations generally relate to the percentage of the duty reduction and phase-in period and are not applicable to reciprocal agreements to eliminate or harmonize duties negotiated under WTO auspices, such as so-called "zero-for-zero" negotiations. This authority could not be used for import-sensitive agriculture products.

Customs Service Provisions

Appropriations Authorization. H.R. 3009 would authorize for the Customs Service $3.0 billion in FY 2003 and $3.1 billion in FY 2004, including $308 million in each year for development of the Automated Commercial Environment, the upgrade to the current import processing system, and $171 million in FY 2003 and $175 million in FY 2004 for air and marine interdiction operations. The enrolled bill would require that, of the FY 2003 and FY 2004 appropriations, $28 million be available until expended to hire 285 new Customs staff for the U.S.-Canada border, $90 million in FY 2003 for border inspection and detection equipment, and $9 million in FY 2004 for maintenance of that equipment.

The enrolled bill would also authorize appropriations of: $10 million in FY 2003 to combat on-line child sex predators; $9.5 million in FY 2003 to combat textile transshipment, including the hiring of new staff; $1.3 million to implement the African Growth and Opportunity Act; and such sums as may be necessary to reestablish Customs Service operations formerly located at the World Trade Center in New York.

Warrantless Mail Search Authority. The enrolled bill would allow Customs officers to open, but not read, all outbound mail, including the one class that is currently sealed from inspection, based on "reasonable cause" and without a search warrant, *if the mail weighs in excess of one pound*, if there is reasonable cause to suspect that the mail contains weapons, unreported monetary instruments, or other contraband. In order for this provision to go into effect, the Secretary of State would have to determine that the practice conforms with international law and treaty obligations.

Electronic Manifests. H.R. 3009 would require the Secretary of the Treasury, within a year of the enrolled bill's enactment, to promulgate regulations requiring air, land, and sea commercial carriers to provide advance electronic manifests of passengers and cargo before entering or leaving the country.

Customs Officer Searches. H.R. 3009 would give Customs officers immunity from lawsuits stemming from personal searches of people entering the country as long as the searches were reasonable and done in good faith. Customs' policy and procedures prohibiting "profiling" of passengers must be conspicuously posted at each Customs border facility.

Fees. The enrolled bill would require the General Accounting Office to study and report to the House Ways and Means and Senate Finance Committees on whether current user fees are appropriately set at a level commensurate with the service provided for the fee. H.R. 3009 would establish a per item fee of 66 cents to cover Customs expenses incurred by Customs inspections at courier facilities and authorize the Secretary of the Treasury to adjust the fee within a certain range.

Pay Provisions. H.R. 3009 would authorize appropriations as may be necessary to increase the annual pay of GS-9 journeyman Customs inspectors and Canine Enforcement Officers, who have completed at least one year of service, to GS-11 and the annual pay of associated support staff "at the appropriate level." The enrolled bill would also eliminate some of the caps on overtime pay for Customs staff.

Personal Duty Exemption. The enrolled bill also increases the personal exemption allowances for merchandise purchased abroad by returning residents from $400 to $800.

Miscellaneous Provisions

H.R. 3009 requires the Secretary of Agriculture and the Commissioner of Customs to monitor imports of sugar and sugar-containing products (such as "stuffed molasses") for potential circumvention, and provide a report to Congress and the President every six months that will include import data and discuss whether the imports or articles not subject to the tariff-rate quotas are being used for commercial extraction of sugar in the United States.

The enrolled bill amends the African Growth and Opportunity Act to: increase the current cap for apparel made of regional fabric; increase benefits for Botswana and Namibia by permitting them to use non-U.S. or AGOA fabric for a limited period of time; and allow benefits for merino wool sweaters.

In addition, H.R. 3009 would extend preferential treatment to apparel articles formed from components knit-to-shape imported from beneficiary countries under the Caribbean Basin Economic Recovery Act.

H.R. 3009 includes authorization of appropriations for USTR and the USITC. For USTR, the bill authorizes $32 million for FY 2003 and $33 million for FY 2004; for ITC, $54 million for FY 2003 and $57 million for FY 2004 are authorized. The enrolled bill also establishes and authorizes appropriations of $50 million for a WTO Dispute Settlement Fund.

One Hundred Seventh Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Wednesday, the twenty-third day of January, two thousand and two

An Act

To extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Trade Act of 2002".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into 5 divisions as follows:

(1) DIVISION A.—Trade Adjustment Assistance.

(2) DIVISION B.—Bipartisan Trade Promotion Authority.

(3) DIVISION C.—Andean Trade Preference Act.

(4) DIVISION D.—Extension of Certain Preferential Trade Treatment and Other Provisions.

(5) DIVISION E.—Miscellaneous Provisions.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

(c) REPORTS AND RECOMMENDATIONS.—The Secretary and the Commissioner shall report their findings to Congress and the President not later than 180 days after the date of enactment of this Act and every 6 months thereafter. The reports shall include data and a description of developments and trends in the composition of trade of articles provided for in the chapters of the Harmonized Tariff Schedule of the United States identified in subsection (b) and any indications of circumvention that may exist. The reports shall also include recommendations for ending such circumvention, including recommendations for legislation.

Fred R. Wolf

Speaker of the House of Representatives pro tempore.

Robert C. Byrd

~~*Vice President of the United States and*~~
President of the Senate pro Tempore.

APPROVED

AUG - 6 2002

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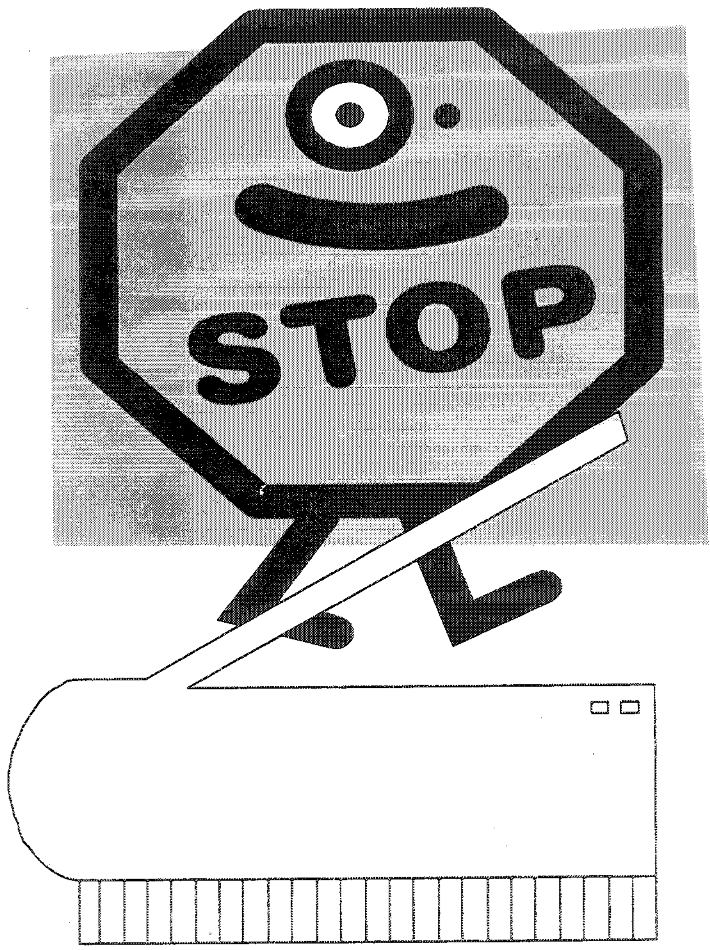

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

August 2, 2002

The Honorable Mitchell E. Daniels, Jr.
Director
Office of Management and Budget
Eisenhower Executive Office Building
Washington, D.C. 20500

Dear Mr. Daniels:

You have requested a recommendation from the Office of the U.S. Trade Representativ (USTR) regarding the President's approval and signature of enrolled bill H.R. 3009, "The Trade Act of 2002" ("the Trade Act"). The Trade Act provides the President with "Trade Promotion Authority" (TPA), extends and clarifies U.S. tariff preference programs, extends and cc isolidates U.S. trade adjustment assistance programs and establishes a road map for the negotiatic ı of future international trade negotiations. We strongly recommend that the President appr ıve and sign H.R. 3009.

President Bush has made achievement of TPA and its use for the benefit of U.S. worke s, farmers and business the cornerstone of U.S. trade policy. Trade Promotion Authority expired ı 1994 and the United States has fallen behind other countries in concluding free trade agreem nts. The authority provided in the Trade Act will permit the United States to reassert its leadersl p in world trade through the global negotiations in the World Trade Organization (WTO), c mpletion of ongoing free trade agreement negotiations with Singapore, Chile and our trading par ners in the Western Hemisphere and new negotiations to open markets and foster growth and s ability. The President has already indicated our interest in initiating negotiations with Moroccc and countries in Central America on free trade agreements. Expanding our access to mark ts for U.S. exports, encouraging use of U.S. inputs, including fabric and yarn, and lowering t e cost of goods and services for U.S. consumers will all contribute to our economy and help stre ıgthen its recovery and growth.

Signature of the Trade Act will also renew the Generalized System of Preferences (GS P) program and clarify and extend new benefits under the Andean Trade Promotion and I rug Eradication Act (ATPDEA), the African Growth and Opportunity Act (AGOA) and th Caribbean Basin Economic Recovery Act (CBERA). Each of these four tariff preferer e programs plays an important role in permitting developing countries to become active participants in international trade and to recognize in their economies and societies the benefits that flow from predictable market access. The ATPDEA program, for example, will he p Bolivia, Ecuador, Peru and Colombia counter the narcotics trade and provide alternatives to illi it activities.

USTR, with the advice and assistance of the interagency Trade Policy Staff Committe , will have primary responsibility for implementing many of the provisions of the Trade Act. A s mmary of provisions that were dealt with in the Conference Report is attached. As indicated abov , negotiations are ongoing in several fora and we anticipate immediate action to consult v th Congress and provide the notifications required under the Trade Act. USTR has planne for these negotiations and together with other trade and economic agencies will be engaged n an intensive effort over the next few years. Our budget and staffing requests will reflect th se increased activities.

We recommend that the President approve and sign H.R. 3009.

Sincerely,

Peter B. Davidson
General Counsel

Attachments

GENERAL SUMMARY OF TRADE PROVISIONS

The "Bipartisan Trade Promotion Authority Act" (the TPA Act), Division B of the Trac e Act of 2002, builds on the approach taken in prior trade legislation, including most recently the Omnibus Trade and Competitiveness Act of 1988 (1988 Act). The TPA Act establishes overall negotiating objectives and principal negotiating objectives for agreements that can be implemented through TPA procedures. The Act also sets forth certain priorities for the 'resident to address in trade agreement negotiations. Although the specific objectives may differ i ı some respect from the 1988 Act and prior laws, the approach is similar.

Agriculture issues, stronger protection of intellectual property rights, market access and ıon-discriminatory treatment for electronic commerce, elimination of barriers to U.S. export of goods, services and investment and measures distorting trade, enhanced transparency ar l participation in the regulatory process, anticorruption, border tax measures, market acce s for small businesses, achieving competitive market opportunities for textiles, labor, includi g enforcement of existing laws prohibiting the worst forms of child labor, environment ar l dispute settlement issues are all among the principal negotiating objectives set out in the TPA A :t, as well as preserving the ability of the United States to enforce rigorously its trade remedy aws. TPA procedures may be used for bills implementing trade agreements only if the agreer ent makes progress in meeting the applicable overall and principal negotiating objectives. ! uch bills may consist only of provisions approving the trade agreement and statement of adminis ative action and provisions necessary or appropriate to implement the trade agreement. More ver, if the President wants to use TPA procedures for a bill implementing a trade agreement, d tailed procedural requirements, including specific requirements for consultations, notification and reports must be satisfied.

Most of the TPA procedures specified in the TPA Act are the same as those in the prior aw. Once the implementing package is introduced in Congress, action on the bill must occu within a specified time period and no amendments are permitted to the bill. The TPA Act adds ome new requirements and provisions on disapproval resolutions. Enactment of a binding disapproval resolution would preclude use of TPA procedures for a trade agreement implementing bill. A threshold condition for use of TPA procedures to implement an greement negotiated under the auspices of the World Trade Organization (WTO) is that the Depa ment of Commerce, in consultation with the Secretaries of State, Treasury and Labor, the Atton y General and the USTR, report on a strategy to address Congressional concerns about w ether WTO dispute settlement panels or the Appellate Body have added to obligations or dim nished rights in respect of trade remedies. More generally, the TPA Act requires the Presider to notify Congress 90 days before entering into an agreement of his intent to enter into the agree ıent. The President must also report to Congressional trade committees 180 days in advance of e ering into a trade agreement on proposals advanced, and that could be in the final agreement, hat would require amendments to U.S. trade remedy laws and on how these proposals relat to U.S. negotiating objectives on this subject. Any member of Congress may introduce a non-t nding resolution finding that the proposed changes to U.S. trade remedy laws are inconsisten with the relevant negotiating objectives of the TPA Act.

TPA procedures are available for bills implementing trade agreements entered into befo e June 1, 2005 or June 1, 2007, if TPA authority is extended. The process for extending TPA aut ority differs from prior law and includes requirements for the President to request an extensic 1 by March 1, 2005, and reports from the U.S. International Trade Commission and the Advi ory Group on Trade Policy and Negotiations to Congress by May 1, 2005. Any member of ither the House or Senate may introduce a resolution disapproving the extension of TPA authorit and if either the House or the Senate approves such a resolution TPA authority will not be ext ıded. Congress must act before June 1, 2005 on any resolution disapproving extension of TP/ .

The "Andean Trade Promotion and Drug Eradication Act" (ATPDEA), Division C of t e Trade Act, renews and enhances benefits available to Bolivia, Ecuador, Colombia and Peru ur ler a tariff preference program. The program assists in the promotion of trade, stability and ıe rule of law in these countries. The President must designate a country as an ATPDEA benei ciary country based on statutory criteria, including eight new criteria. Under ATPDEA, duty- ree treatment is provided for some products that were excluded under prior law and remain xcluded from duty-free treatment under the Generalized System of Preferences (GSP) program. Duty-free treatment for certain, other products is available only if the President determines that th relevant product is not import sensitive in the context of imports from ATPDEA beneficiary cou itries. A very limited number of products remain excluded from duty-free treatment. Benefits ur ler the ATPDEA are available until December 31, 2006. Basic ATPA benefits apply retroacti ly to December 4, 2001.

The Trade Act also expands benefits and clarifies provisions under the Caribbean Basin Economic Recovery Act (CEBRA) and the African Growth and Opportunity Act (AGO). In addition, the GSP program is renewed retroactively to September 30, 2001, and extende l to December 31, 2006.

SUMMARY OF TPA ASPECTS OF LEGISLATION

Trade Remedies/Dispute Settlement

- Drops the Dayton-Craig amendment regarding trade remedy laws.
- Makes preserving the ability of the United States to enforce rigorously its trade r medy laws a primary negotiating objective. Includes provisions directing the Presiden to address and remedy market distortions that lead to dumping and subsidization.
- Includes findings criticizing WTO panel/Appellate Body decisions for disregarc ng "standard of review" and for imposing obligations and restrictions in rules area.
- Includes principal negotiating objective to seek adherence by WTO dispute sett ement panels and the Appellate Body to the appropriate standard of review in the relev int WTO agreement.

Reports/Consultations

Trade Remedies/Dispute Settlement

- President required to transmit a report to the Ways and Means and the Senate I nance Committees at least 180 days before entering into a trade agreement regarding roposals advanced in negotiations which might change U.S. trade remedy laws and how those proposals relate to the negotiating objectives in the Bipartisan Trade Promotio Authority Act.
  - Upon receipt of report any member of Congress can introduce a non-bi iding resolution of disapproval stating that the proposals are inconsistent wit the negotiation objectives in the Act.
  - Only one disapproval resolution (whether binding or non-binding) per greement per Congress can be considered. The resolution, once reported from t e Committee on Ways and Means or Finance, is privileged.
  - The timing of the reports for the Chile and Singapore FTAs is 90 rath than 180 days.
- TPA does not apply to WTO negotiations unless the Department of Commerc e, together with USTR, Treasury, State and the attorney general, reports to Congress bef re December 31, 2002 on a strategy to remedy panel/Appellate Body decisions dding to U.S. obligations or diminishing U.S. rights as described in bill's findings.

Trade Agreement Penalties

- The President must, within twelve months of imposing a penalty or remedy auth rized by a trade agreement, report to the trade committees on the effectiveness of the pen lty or remedy in enforcing U.S. agreement rights.

Agriculture

- Before initiating or continuing negotiations on trade in fish products, President hall consult with House Committee on Resources and Senate Committee on Comm rce, Science, and Transportation, and keep committees apprised.

- Before initiating negotiations on agriculture, identify and consult with trade an agriculture committees on sensitive products that were subject to Uruguay Rou d tariff reductions and products subject to tariff rate quotas, including on whether furt r tariff reductions are appropriate and on foreign SPS barriers. Consultations should i clude whether other producing countries use export subsidies or other practices that istort world markets and their impact on U.S. producers.

USITC Reports on TPA Agreements

- Within one year of enactment, USITC to report to trade committees on econor ic effect of five TPA agreements concluded since 1974. When President requests TPA e ension, ITC to report on effect of further agreements implemented after date of enactn ent.

- If President requests an extension of TPA in 2005, the USITC must report on he economic impact of TPA agreements already completed.

Effect of Failure To Notify Agreements

- Agreements and understandings not expressly notified to Congress shall not l e considered part of an agreement approved under TPA procedures and shall h ve no effect under U.S. law or in any dispute settlement body proceeding.

Investment

- Includes objective on transparency in investment disputes. Dorgan amendm nt dropped.

- Principal negotiating objective:

  Ensure that foreign investors in the United States do not have greate substantive rights than U.S. investors in the U.S.

  – This compromise between the House and Senate versions clarifies t at the provision addresses substantive, not procedural, rights. Senate versi n may have been read to deny foreign investors procedural rights.

- Seek standards for fair and equitable treatment consistent with U.S. legal princi es and practice, including due process.

- Provides for an appellate body or similar mechanism to provide coherence to interpretations of investment provisions of trade agreements.

  – Compromise removed from House version the standard of review of "to orrect manifestly erroneous interpretations." New version provides greater fle ibility to negotiators to develop appropriate standard.

Labor/Environment

- *Worst forms of child labor*:

  (1) Principal negotiating objective to seek commitments to vigorously enforce omestic laws prohibiting the worst forms of child labor.

  (2) "Promotion of ceratin priorities" by President: to establish consultative mec anisms to strengthen capacity of trading partners to promote respect for core labor standa ds and to promote compliance with ILO Convention 182 and report to the trade committ es on the content and operation of such mechanisms.

  (3) Overall negotiating objective to promote full compliance with ILO convent on concerning worst forms of child labor.

  – Senate version had included statement that WTO Members have right limit or ban imports produced through worst forms of child labor; obligating tr de agreement parties to enact and enforce laws on worst forms of child la or.

- In connection with any TPA trade negotiations, submit to trade committees a eaningful labor rights report on the country, or countries, with respect to which the Presi ent is negotiating.

The bill requires the President to promote certain priorities, including through the foll wing actions:

- *Environmental reviews*
  "(4) conduct environmental reviews of future trade and investment agreement , consistent with Executive Order 13141 . . . and its relevant guidelines . . ." and report to rade committees on the review.

- *Employment reviews*
  "(5) review the impact of future trade agreements on United States employme t, including labor markets, modeled after Executive Order 13141 to the extent ppropriate

in establishing procedures and criteria", report to trade committees and make rep rt available to public.

– Language concerning "to the extent appropriate" provides greater flexibil ty than Senate language, which required specific factors to be taken into account

- *Multilateral environmental agreements*

"(10) continue to promote consideration of multilateral environmental agreemen s and consult with parties to such agreements regarding the consistency of any such a reements that include trade measures with existing environmental exceptions Article XX f GATT 1994;"

Agriculture

- Strive to complete WTO negotiations by 1/1/2005 and seek broadest possible m rket access in all negotiations, recognizing effect of simultaneous negotiations on se sitive agricultural products.

Border Tax Adjustments

- Principal negotiating objective:

  Revise WTO rules on treatment of border adjustments for internal taxes o redress disadvantages to countries relying primarily on direct rather than indirec taxes.

Small Businesses

- Overall negotiating objective:

  trade agreement provisions should afford small businesses equal access o markets, equitable benefits, expanded market access, and reciprocal bar er elimination.

- Title of AUSTR for Industry and Telecom should reflect small business functic .

Trade-Related Intellectual Property Rights

- Includes in IPR principal negotiating objective:

  "respect the [Doha] Declaration on the TRIPS Agreement and Public Health"

Electronic Commerce

The bill includes among its principal negotiating objectives for electronic commerce:

"(B) to ensure that -- (i) electronically delivered goods and services receive no l ss favorable treatment under trade rules and commitments than like products delive ɜd in physical form."

"(D) where legitimate policy objectives require domestic regulation that affect el ctronic commerce, to obtain commitments that any such regulations are the least restricti ve on trade, nondiscriminatory, and transparent, and promote an open market environm ent;"

Human Rights and Democracy

- Provision dropped from the bill

TPA Duration

- The bill provides that TPA shall remain in effect until June 1, 2005, with an exte sion until June 1, 2007, if certain conditions are met.

Summary of ATPA Provisions

Name and Eligibility Criteria:

- The name of the new program is Andean Trade Promotion and Drug Eradicatio Act (ATPDEA).

- 8 new discretionary criteria for "new" benefits (includes a criterion related to su port for war on terrorism).

Non-Apparel Products:

- Tuna: covers only tuna imported in pouches (canned tuna is expressly excluded rom duty-free treatment under ATPDEA), with no limits on the volume of duty-free mports of tuna in pouches. The basis for calculating the in-quota quantity of the TRQ at applies to imports from other countries has been changed so that it will be more stable long-term providing greater certainty regarding the volume of imports that will e subject to low tariffs. (Previous calculation method had resulted in shrinking in-quota uantity since domestic production of canned tuna is declining.)

- Rum and tafia: excluded from duty-free treatment.

- Sugars, syrups, sugar-containing products: duty-free treatment for in-quota (TR) volumes; over-quota volumes excluded from duty-free treatment.

- Leather products, footwear, petroleum and petrol products, watches and watch arts: President may proclaim duty-free treatment subject to determination that these roducts are not import-sensitive in the context of imports from ATPDEA beneficiary c ntries.

Apparel Products:

- Apparel assembled in the region from U.S. fabric or fabric components or com onents knit-to-shape in the United States. No cap applies to volume of products eligib e for duty-free treatment and these products are not subject to quotas, but dyeing, pri ting and finishing must be done in the United States. (U.S. or regional yarn may be use in the fabric, no requirement to use U.S. thread.)

- Apparel assembled in the region from regional fabric or components knit-to-sh pe in the region: duty-free treatment and exemption from quotas are subject to a cap; ca is 2% of total square meter equivalents of all imported apparel (for calendar year beginn ng 10/02), increasing annually in equal increments to 5% (for calendar year beginning 10/ 6); U.S. or regional yarn may be used to make the fabric

  - Duty-free treatment and quota exemption of apparel assembled in the r gion from "hybrid" operations (fabric or knit-to-shape components made partly in l .S. and partly in region) are subject to overall cap; also allowed are knit apparel rticles containing fabric formed in the United States from U.S. yarn

- If in chief value of *alpaca, llama, or vicuna*, apparel assembled in the re ion from regional fabrics or fabric components made or components knit-to-shape will not be subject to duties or quotas.

- Apparel assembled in region from fabrics or yarns in "short supply": duty-free/c iota-free treatment for fabrics or yarns with no sourcing restrictions under NAFTA (beca se in short supply), or additional fabrics or yarns that the President determines are in hort supply. (Request process, with requirements for receipt of advice from USITC a id advisory committees, consultation, and layover period of 60 calendar days.)

- Brassieres: must satisfy certain production requirements to qualify for duty-free quota-free treatment.

- Textile luggage assembled in region from U.S. fabric made with U.S. yarn, as w ell as hand-loomed, handmade and folklore articles qualify for duty-free/quota-free tr atment.

Enforcement Provisions

- If an ATPDEA exporter engages in transhipment, that exporter will be denied a benefits under the program for 2 years.

- If an ATPDEA country does not take appropriate actions to prevent transshipm nt, the President may reduce the quantity of apparel articles that the country may expor to the United States.

- The President may take emergency action to protect the U.S. market from surge of apparel exports from ATPDEA countries that seriously damage the domestic in ustry.

- ATPDEA countries must comply with customs procedures similar in all materi l respects to those in the NAFTA, including the requirement that a Certificate of Origin m ist be provided.

- USTR must review the program in general and each country's performance to r port to the Congress by April 30, 2003, and every two years after that while the progra i is in effect.

- Customs must report to the Congress on the extent to which each Andean coun y is cooperating with its efforts to prevent circumvention by October 1, 2003. Cust ms must also develop procedures to ensure compliance with the production requirements or brassieres.

General Provisions

- Duration: Enters into effect on the date of enactment and expires December 31, 2006.
- Retroactivity: Makes benefits under the "old" program retroactive to December 4, 2001 when the program expired.
- Petitions for Review: Requires President to issue regulations within 180 days after enactment of legislation to set up process for formal review of the eligibility of countries and articles under the program. Includes petition process and requires procedures similar to those for the GSP program.

CBERA provisions in ATPA legislation:

- Harmonizes apparel eligibility criteria between ATPA, AGOA, CBERA
  - Allows U.S. and regional knit-to-shape components to be used in all eligible apparel articles.
  - "Hybrid" articles (that is, articles containing both U.S. and regional components, and/or articles containing both fabric and knit-to-shape components) now eligible.
  - As in ATPDEA, for apparel assembled in the region from U.S. fabric or fabric components or components knit-to-shape in the United States, dyeing, printing and finishing must be done in the United States. A separate provision clarifies that thread need not be dyed, printed, or finished in the United States.
  - Harmonizes ATPDEA and CBERA eligibility and enforcement provisions for brassieres.
- CBERA-specific provisions
  - Increases the cap for knit apparel articles (other than socks and t-shirts). These articles includes articles knit-to-shape in the region from U.S. yarn, and knit articles cut and assembled in the region from regional fabric.
  - Increases the separate cap for t-shirts made in the region from fabric formed in the region from U.S. yarn.

AGOA provisions in ATPA legislation:

- Harmonizes apparel eligibility criteria between ATPA, AGOA, CBERA
  - Allows U.S. and regional knit-to-shape components to be used in all elig ɔle apparel articles.
  - "Hybrid" articles (that is, articles containing both U.S. and regional com onents, and/or articles containing both fabric and knit-to-shape components) nov eligible.
- AGOA-specific provisions
  - Apparel articles formed on a seamless knitting machine in the region fro ı U.S. or regional yarn now eligible.
  - Approximately doubles the cap on apparel articles assembled in the regi n from regional fabrics.
  - A technical correction will allow AGOA producers to take advantage of he benefit for merino wool sweaters.
  - Adds Botswana and Namibia to the list of lesser developed AGOA coun ries.

Miscellaneous Provisions

- Report to Congress reviewing the terms and implementation of the U.S.-Israel I ee Trade Agreement and assessment of improvements in structuring future FTAs based c ı experience; due 6 months after date of enactment.

EXTENSION OF GSP AND OTHER MISCELLANEOUS PROVISIONS

Generalized System of Preferences

- GSP renewed and extended through December 31, 2006.
- Duty-free treatment retroactive to September 30, 2001–expiration date of old pr gram.
- Antiterrorism criterion added, and the definition of internationally recognized w rker rights now includes reference to a minimum age for the employment of children and a prohibition on the worst forms of child labor.

Miscellaneous Provisions

- Payments to worsted wool fabric and yarn manufacturers who import or produce fabric from imports of certain wool yarns, or who import or produce fabric or yarn fro imports of certain wool fibers or wool tops.
- Duty suspension on wool fabric extended through December 31, 2005.
- Fund for WTO dispute settlements <u>authorized</u>; still needs appropriation. (Could be used to provide compensation fund for 110 (5) copyright dispute.)
- Duty suspension on certain boilers used in nuclear facilities through December 1, 2006.
- Sugar tariff rate quota circumvention provision; includes provision for Secretary of Agriculture and Customs to monitor imports to determine if circumvention of s gar TRQ and report findings to Congress every 6 months starting 180 days after enactme of bill.
- Customs budget authorization, with increased funding for borders and transship ent.
- Allows unsealed outbound mail and outbound mail in excess of 16 oz. to be ope ed but not read without a warrant.
- Provides immunity for Customs inspectors who act in good faith by following f deral inspection procedure

USDA

United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

AUG 2 2002

The Honorable Mitchell E. Daniels, Jr.
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Director Daniels:

This is in reply to your request of July 29, 2002, concerning the views of the Department of Agriculture (USDA) on the enrolled bill H.R. 3009, "Trade Act of 2002."

USDA recommends that the President sign the enrolled bill.

The bill provides the President authority to enter into trade agreements with foreign countries. Additionally, the bill reauthorizes and expands trade adjustment assistance (including farmers for the first time), renews Andean Trade Preferences for four South American countries, and extends the Generalized System of Preferences for developing countries.

USDA is pleased to recommend that the President sign this bill, which will strengthen our position in the World Trade Organization (WTO) agriculture negotiations, as well as in regional and bilateral negotiations. The agriculture negotiating objectives, while asking for consultation regarding market access for import-sensitive products, call for the Administration to seek reciprocal trading opportunities and provide sufficient flexibility for our negotiators to pursue the ambitious WTO strategy announced last week by USDA and the Office of the U.S. Trade Representative.

USDA may be faced with implementation challenges and costs that were not anticipated in the Administration's fiscal year 2003 budget request. A new program, Trade Adjustment Assistance for Farmers, brings a greater sense of equity across sectors of the economy. But, it is unclear whether funds appropriated in the Trade Act of 2002 may be used by USDA to administer the program. Additionally, USDA will be required to continuously monitor and provide semiannual reports on attempts to circumvent sugar tariff-rate quotas.

The Trade Act of 2002 is in the best interests of American agriculture. USDA welcomes this bill and encourages the President to sign it.

Sincerely,

Ann M. Veneman
Secretary

THE DEPUTY SECRETARY OF COMMERCE
Washington, D.C. 20230

August 2, 2002

The Honorable Mitch Daniels
Director, Office of Management
and Budget
Washington, D.C. 20503

Dear Mr. Daniels:

This letter is in response to your request for the views of the Department of Commerce on H.R 3009, the Trade Act of 2002, an enrolled bill

> To extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes.

The Department of Commerce recommends that the President approve this bill, which includes the Bipartisan Trade Promotion Authority Act, providing the President with the flexibility he needs to negotiate strong international trade agreements on behalf of U.S. workers, producers and families.

The bill will level the playing field for American producers by removing trade and investment barriers that have hindered American exports to the rest of the world, where 96 percent of all consumers live. It will promote new economic opportunities for American workers employed by exporters, because wages for export-dependent jobs are 13 to 18 percent higher than the national average. It will improve the quality of life for American consumers by providing a greater choice of goods at better prices. Future trade agreements stand to save a typical American family of four $2500 a year by simply reducing global tariffs by one-third.

This enrolled bill also includes the reauthorization of the Andean Trade Preference Act (ATPA), which, since its enactment in 1991, has generated $3.2 billion in new output and $1.7 billion in new exports. ATPA has been an essential tool for the United States in our fight against drug trafficking and production in Bolivia, Colombia, Ecuador and Peru, and has helped to keep democracies stable in the region, providing employment alternatives to illegal crop cultivation and drug trafficking. In addition, it expands benefits for Andean apparel made of U.S. fabric, which must be dyed and finished in the United States. It includes many enhanced enforcement provisions, including providing the President with the authority to take emergency action to protect the U.S. market from surges of apparel exports from Andean countries that cause serious damage to the domestic industry and the authority to reduce the quantity of apparel articles that the country may export to the United States if the country does not take appropriate actions to prevent transshipment.

In addition, the enrolled bill renews the Generalized System of Preferences through 2006 and adds new criteria on the worst forms of child labor and terrorism.

The bill also includes the Trade Adjustment Assistance (TAA) Reform Act, which extends the TAA program for firms at Commerce through FY2007, and authorizes annual appropriations in the amount of $16 million. While the level of the authorization exceeds the budget request, the Administration supports the Economic Development Administration's TAA program for firms and has requested appropriations in the amount of $13 million for FY2003. We also note that section 143 of the enrolled bill requires the Secretary of Commerce to study whether a TAA program is appropriate and feasible for commercial fishermen or fish processors.

Enactment of H.R. 3009 will not require an increase in the appropriations for the Department of Commerce for FY2003.

Sincerely yours,

Samuel W. Bodman

Withdrawal Marker
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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Letter	[Views of the Department of the Treasury] - To: Mitchell E. Daniels, Jr. - From: David D. Aufhauser	1	08/02/2002	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of the

SERIES:
Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:
08/06/2002 [H.R. 3009] [771371] [1]

FRC ID:
6360

OA Num.:
9467

NARA Num.:
9358

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
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This Document was withdrawn on 9/26/2013 by TDF

SECRETARY OF LABOR
WASHINGTON

AUG 2 2002

The Honorable Mitchell E. Daniels, Jr.
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Director Daniels:

This is in response to your request for the Department of Labor's recommendation regarding Presidential action on enrolled enactment H.R. 3009, the "Trade Act of 2002." The Department of Labor recommends Presidential approval of H.R. 3009.

Increased trade results in expanding job opportunities and higher wages for American workers. By providing trade promotion authority that is essential to enabling the United States to reach new trade agreements, the bill provides a catalyst to promoting economic growth and creating new jobs. The Department therefore supports approval of the bill as an important measure to enhance the economic well-being of American workers.

The Department would have two primary responsibilities under the bill. The first would be the administration of the reauthorized Trade Adjustment Assistance (TAA) program and the second would be assisting in carrying out certain labor-related aspects of trade negotiations.

While trade has net economic benefits, the Department recognizes that trade may also result in some dislocations and that some workers may have to find new jobs. The Department therefore has supported the reauthorization and enhancement of the TAA for Workers program. The TAA program provides important employment, training and related income support, and supportive services, that assist workers adversely affected by trade to obtain reemployment.

H.R. 3009 reauthorizes the TAA program and incorporates a number of significant changes to the program. First, it consolidates the current TAA program and the NAFTA Transitional Adjustment Assistance (NAFTA-TAA) program, which assists workers adversely affected by trade with Mexico or Canada, into a single enhanced TAA program. Rather than having two sets of rules and procedures that were often overlapping, duplicative and confusing, the consolidated program will have a uniform set of requirements that will ease the burdens on workers and the State agencies that administer the program. The consolidated TAA program would be authorized through fiscal year 2007, and would generally take effect with respect to petitions for certification of eligibility filed on or after 90 days after the date of enactment.

Second, the bill expands the eligibility of workers for TAA assistance. Under the current TAA program, eligibility is limited to workers whose firms are adversely affected by imports (NAFTA-TAA also covers shifts in production to Mexico or Canada). The bill would include as eligible for TAA those workers who lose their jobs when their firms shift production either to countries that are parties to a free trade agreement with the U.S. or to countries that are beneficiary countries under certain specified Acts. Coverage would also be extended when there has been or is likely to be an increase in imports in the articles produced by the firm that shifted production to another country. In addition, the bill would expand eligibility to certain "secondary" workers, specifically workers whose firms were suppliers of component parts to firms directly affected by trade (i.e., imports or a shift in production) and either the component parts constituted at least 20 percent of the sales of the supplying firm, or the loss of business with the directly affected firm contributed importantly to the loss of jobs at the supplying firm. The bill would also expand eligibility to certain secondary workers who are downstream producers, such as finishers or final assemblers of articles produced by a directly affected firm, where the directly affected firm was certified as eligible due to imports from, or shifts in production to, Mexico or Canada. The inclusion of these downstream producers codifies a commitment that was made in the Statement of Administrative Action that accompanied the NAFTA Implementation Act to provide TAA-like benefits to such workers.

Third, the bill makes a number of changes in the administrative requirements under TAA. The time period for the Department to make a determination of whether a petition for eligibility meets the approval criteria would be shortened by one-third (from 60 days to 40 days), and the submission of a petition would trigger the provision of rapid response services by the State that would quickly inform workers of available assistance that could facilitate reemployment. In order to promote adjustment and accelerate reemployment, the bill also would require that to be eligible to receive income support through TAA after unemployment insurance is exhausted, a worker must enroll in training not later than 16 weeks after the separation from employment, or, if later, 8 weeks after the petition for eligibility has been approved. In addition, the criteria for issuing waivers to workers of the requirement that they be enrolled in training in order to qualify for income support is tightened to include only six specified conditions. This is intended to ensure that the primary purpose of extended income support, that is to enable a worker to participate in training, is maintained while allowing limited exceptions where such enrollment may not be appropriate.

Fourth, the bill enhances the benefits available under the TAA program. The bill would add an additional 26 weeks of extended income support for workers participating in training. Therefore, the combination of unemployment insurance and extended income support under TAA could provide a maximum of 104 weeks of income support, which would align with the 104 weeks of training allowed under the program. In addition, those workers whose training includes remedial education could receive another 26 weeks of income support and training, which would provide a maximum of 130 weeks of such support. The bill would also increase the cap on allowances for out-of-area job search and relocation from $800 to $1250 (this reflects a one-time inflation adjustment from when the caps were initially established). The bill enhances the provision of employer-based training by authorizing training customized to the requirements of specific employers and making the requirements for such customized training and for on-the-job training consistent with the requirements under the Workforce Investment Act (WIA). The bill also increases the annual cap on training expenditures from the current combined cap of $110 million ($80 million for TAA and $30 million for NAFTA-TAA) to $220 million for the consolidated TAA program.

Fifth, the bill would establish a demonstration program of alternative trade adjustment assistance to older workers. Under this program, workers in firms with a significant number of workers over the age of 50 who are without easily transferable skills may choose, in lieu of the other benefits available under the TAA program, to receive payments of 50% of the difference between pre-layoff wages and their reemployment wages. A worker could receive payments for up to a two-year period, but the maximum amount paid may not exceed $10,000. In order to qualify, the worker must be at least 50 years of age, become reemployed within 26 weeks of separation, and be reemployed at annual wages of less than $50,000 in a full-time job that is not the job from which he was layed off. The Department has up to one-year after the date of enactment to implement the program and the program is to terminate five years after it has begun operation, except that after the termination date participants may continue to receive the balance of the payments for which they were eligible.

Finally, the bill contains a number of provisions providing health insurance assistance to certain TAA-eligible workers. The primary source of assistance would be a tax credit of 65 percent of the cost of coverage of the eligible individual and qualified family members under qualified health insurance. The eligible individuals include three groups: (1) TAA participants who are receiving extended income support under the TAA program, or who would be eligible to receive such income support if they had exhausted their unemployment insurance (UI); (2) TAA participants who are participating in the alternative TAA for older workers demonstration program; and (3) individuals age 55 or older who are receiving pension benefits paid by the Pension Benefit Guaranty Corporation. The credit is to apply to months beginning 90 days after the date of enactment, and the credit is to be available on an advanceable basis not later than August 1, 2003. With respect to the advance payments, the bill specifies that the Secretary of Labor is to issue a certificate verifying the eligibility of the TAA participants for the credit. The Department would coordinate the administration of this responsibility and other aspects of the credit with the Department of the Treasury and the State agencies administering the TAA program.

The bill would also establish a number of grant programs to assist the States in providing health insurance assistance to these eligible groups. In addition to appropriating $100 million for two grant programs that would be administered by the Department of Health and Human Services to help States establish and operate qualified high risk pools, the bill would add two new grant programs to the National Emergency Grants (NEGs) administered by the Department under the WIA. The first program would award grants to provide interim health insurance coverage and supportive services (such as transportation, child and dependent care, and income assistance) to the three groups that are eligible for the tax credit, including TAA-eligible workers certified on or after April 1, 2002. The bill authorizes and appropriates $50 million for FY 2002, which becomes available upon enactment, and authorizes $100 million for FY 2003 and $50 million for FY 2004, for this program. The second NEG program would be available to provide health insurance coverage assistance to individuals included in the three eligible groups and to pay the administrative costs of enrolling such individuals, including the processing of the eligibility certificates necessary for the tax credit. The bill authorizes and appropriates $10 million for FY 2002, which becomes available upon enactment, and authorizes $60 million per year for each of fiscal years 2003-2007, for these grants.

The bill also amends ERISA, the Public Health Service Act, and the Internal Revenue Code to allow a temporary extension of the period during which a worker who is "TAA-eligible" (i.e., is receiving extended income support under TAA or would be eligible to receive such support if UI were exhausted) may elect COBRA continuation coverage under the layoff employer's health insurance plan. The extension is for a 60-day period that begins on the day the individual first meets the TAA eligibility requirements, and the election must occur within 6-months of the trade-related layoff. If a worker were to make such an election, assistance in making the payments for the continuation coverage could be provided through the tax credit or through the NEG grants.

In sum, the bill makes significant changes to the TAA program that would provide comprehensive assistance to workers who lose their jobs due to international trade.

In addition to the administration of the TAA and health-related provisions, the Department would have significant responsibilities in connection with implementing the labor-related provisions of trade negotiation objectives described in section 2102 of the bill. Specifically, the Department would be responsible for implementing section 2102(c)(7) of the bill, which provides that the President shall direct "the Secretary of Labor to consult with any country seeking a trade agreement with the United States concerning that country's labor laws and provide technical assistance to that country if needed."

The Department would anticipate taking a lead role, to the extent appropriate, in implementing the sections of the bill related to establishing consultative mechanisms to strengthen the capacity of United States trading partners to promote respect for core labor standards and to promote compliance with ILO Convention No.182, entitled "Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor" (section 2102 (c)(2)); reviewing the impact of future trade agreements on United States employment, modeled after Executive Order 13141 (on the environment)(section 2102 (c)(5)); providing a "meaningful labor rights report" to Congress on the countries or countries with respect to which the President is negotiating a trade agreement (section 2102 (c)(8)); and the report on the extent to which a country or countries that are parties to a trade agreement have in effect laws governing exploitative child labor (section 2102 (c)(9)). The Department's work on these reports and consultations would enhance our ability to participate in the development and negotiation of trade agreement provisions pursuant to section 2102 (b)(11) relating to Labor and the Environment, and section 2102 (b)(17), relating to the Worst Forms of Child Labor. As the Department's Deputy Under Secretary for International Affairs is the U.S. Delegate to the ILO, the Department would also anticipate taking a lead in implementing the section of the bill on seeking greater cooperation between the World Trade Organization and the International Labor Organization. (section 2102 (c)(1)). The Department would coordinate these efforts with the other interested Departments and agencies within the Executive branch.

As described above, the enrolled enactment contains significant provisions that would enhance opportunities for international trade, expand assistance to workers displaced by trade, and provide mechanisms for the consideration of labor-related issues. For the foregoing reasons, the Department of Labor recommends Presidential approval of the enrolled enactment H.R. 3009, the "Trade Act of 2002."

Sincerely,

E. L. Chao

Elaine L. Chao

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FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Memorandum	Trade Act of 2002 - To: POTUS - From: Mitchell E. Daniels, Jr.	7	08/05/2002	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
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SERIES:
Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:
08/06/2002 [H.R. 3009] [771371] [1]

FRC ID:
6360

OA Num.:
9467

NARA Num.:
9358

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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This Document was withdrawn on 9/26/2013 by TDF

Attachment

Other Significant Provisions of H.R. 3009

Trade Promotion Authority (TPA)

Negotiating Objectives. The enrolled bill stipulates nine "overall" U.S. trade negotiating objectives for trade agreements. These objectives are generally similar to the objectives of the Omnibus Trade and Competitiveness Act of 1988, with additional objectives regarding economic growth, worker rights, and environmental protection. H.R. 3009 also includes seventeen "principal" U.S. negotiating objectives regarding trade barriers and other trade distortions, trade remedy laws, trade in services, foreign investment, intellectual property, transparency, anti-corruption, border tax, improvement of the World Trade Organization (WTO) and other multilateral and bilateral trade agreements, foreign regulatory practices, electronic commerce, trade in agriculture and textiles and apparel, dispute settlement and enforcement of trade agreements, WTO extended negotiations, and enforcement of labor and environmental laws. The enrolled bill also requires the President to promote certain priorities, including (1) greater cooperation with the International Labor Organization (ILO), and (2) establishing consultative mechanisms to promote respect for core labor standards, to prohibit the worst forms of child labor, and to develop and implement standards for protecting the environment and human health based on sound science. The bill includes requirements for reviews and reports related to environment, labor, and employment issues.

Congressional Consultation and Notification Requirements. H.R. 3009 establishes a number of requirements that the President consult with Congress. Specifically, it would require the President to provide written notice at least 90 calendar days before entering into negotiations and to consult with the relevant committees and a new Congressional Oversight Group (described below) before and after providing notice. This is separate from the 180-day notice required for any negotiating proposal that may alter U.S. trade remedy laws (discussed in the Memorandum). The bill would establish special consultation requirements for negotiations concerning tariff reductions for agriculture products and several additional requirements, including advice from the U.S. International Trade Commission (USITC), on negotiations relating to import sensitive agricultural products and on trade remedy provisions on seasonal and perishable agricultural products. Additional consultation requirements also apply to textiles and apparel, and fish and shellfish products.

Before entering into any trade agreement, the President would be required to consult with the relevant Committees and the Oversight Group concerning: (1) the nature of the agreement, (2) how and to what extent the agreement would achieve the applicable purposes, policies, and objectives set forth in H.R. 3009; and (3) matters relating to implementation, including the general effect of the agreement on U.S. laws. In addition, at least 90 days before entering into a trade agreement, the President would be required to ask the USITC to assess the agreement, including the likely impact of the agreement on the U.S. economy as a whole, specific industry sectors, and U.S. consumers. That report would be due 90 days after the President enters into the agreement.

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H.R. 3009 exempts from the requirement to consult prior to initiating negotiations, agreements that: (1) are entered into under the auspices of the WTO; (2) are entered into with Chile or Singapore; or (3) establish a Free Trade Area for the Americas. The President is required to provide notification of these ongoing negotiations as soon as feasible after enactment of this bill and to consult before and after providing these notifications.

Expedited Procedures. In order to invoke the expedited trade authority legislative procedures, the President is required to submit the final text of the agreement, the implementing legislation, a statement of administrative action, and certain supporting information to Congress. The procedures of section 151 of the Trade Act of 1974 (explained as follows) would then apply. Specifically, on the same day as the President formally submits the legislation, the bill would be introduced (by request) by the Majority Leaders of the House and the Senate. After formal introduction of the legislation, the House Committees would have 45 legislative days to report the bill. The House would be required to vote on the bill within 15 legislative days after the measure was reported or discharged from the Committees. Fifteen additional days would be provided for Senate Committee consideration (assuming the implementing bill was a revenue bill), and Senate floor action would be required within 15 additional days. Accordingly, the maximum period for Congressional consideration of the implementing bill from the date of introduction would be 90 legislative days. Once the bill has been formally introduced, no amendments would be permitted either in Committee or floor action, and a straight "up or down" vote would be required.

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H.R. 3009 requires USTR to develop written guidelines to facilitate the exchange of information between USTR and the Oversight Group. The guidelines are to provide for: regular detailed briefings; access to documents concerning the negotiations; closest practicable coordination including at negotiation sites; and consultations regarding compliance and enforcement after an agreement is concluded.

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The enrolled bill would also authorize appropriations of: $10 million in FY 2003 to combat on-line child sex predators; $9.5 million in FY 2003 to combat textile transshipment, including the hiring of new staff; $1.3 million to implement the African Growth and Opportunity Act; and such sums as may be necessary to reestablish Customs Service operations formerly located at the World Trade Center in New York.

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H.R. 3009 includes authorization of appropriations for USTR and the USITC. For USTR, the bill authorizes $32 million for FY 2003 and $33 million for FY 2004; for ITC, $54 million for FY 2003 and $57 million for FY 2004 are authorized. The enrolled bill also establishes and authorizes appropriations of $50 million for a WTO Dispute Settlement Fund.

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*********************
***   TX REPORT   ***
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TRANSMISSION OK

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CONNECTION TEL                    61907
CONNECTION ID
ST. TIME                 08/07 11:58
USAGE T                  06'39
PGS. SENT                13
RESULT                   OK
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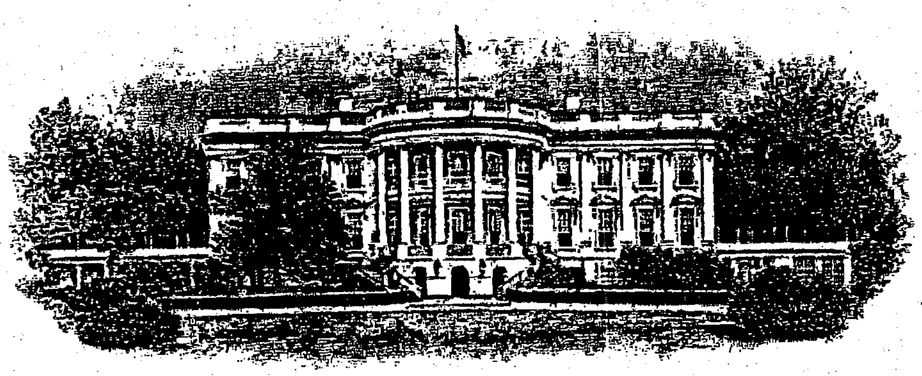
THE WHITE HOUSE
WASHINGTON

Facsimile Transmission Cover Sheet



TO: ______________________

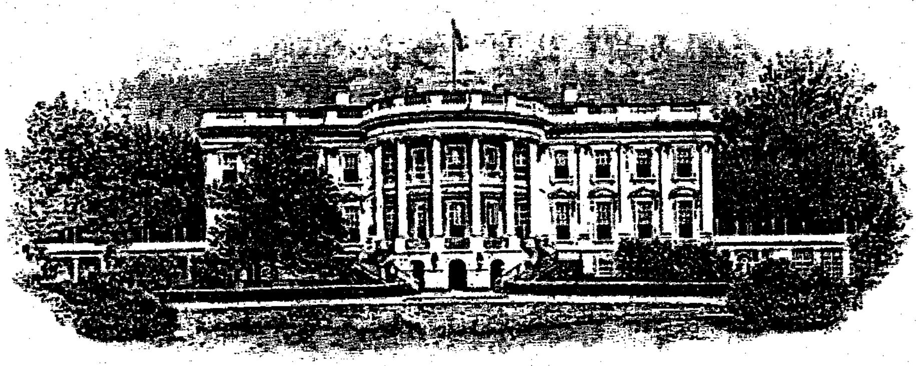
LOCATION/FAX #: 6-1907

COMMENTS:

OMB memo HR 3009

THE WHITE HOUSE
WASHINGTON

Facsimile Transmission Cover Sheet



TO: ____________________

LOCATION/FAX #: 6-1907

COMMENTS:

OMB memo HR 3009

FROM: ____________________

Office of the Executive Clerk
Fax #: 202-456-2569
Voice #: 202-456-2226

SS/ RM NO. ____________

WHITE HOUSE STAFFING MEMORANDUM

Date: 08-05-02 5:00 PM ACTION / CONCURRENCE / COMMENT DUE BY: 08-05-02 7:00 PM

Subject: ENROLLED BILL MEMO H.R. 3009 -- TRADE ACT OF 2002

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☑	☐	HUBBARD	☑	☐
CARD	☑	☐	IRASTORZA	☐	☐
BARTLETT	☑	☐	JOHNSON	☐	☐
BLAKEMAN	☐	☐	LINDSEY	☑	☐
BOLTEN	☑	☐	MARBURGER	☐	☐
BRIDGELAND	☐	☐	MIERS	☐	☐
CALIO	☑	☐	RICE	☑	☐
CONNAUGHTON	☐	☐	RIDGE	☐	☐
DANIELS	☐	☑	ROVE	☑	☐
FLEISCHER	☐	☑	SPELLINGS	☑	☐
GERSON	☐	☑	CLERK	☐	☑
GONZALES	☑	☐	____________	☐	☐
HAGIN	☐	☐	____________	☐	☐
HAWKINS	☑	☐	____________	☐	☐

REMARKS:

PLEASE FORWARD COMMENTS TO JIM JUKES, X 53458, OR FAX 56148, BY 7:00 P.M., TODAY, AUGUST 5, 2002, WITH A COPY TO THE STAFF SECRETARY'S OFFICE. THANK YOU.

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

Withdrawal Marker
The George W. Bush Library

FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
Memorandum	Trade Act of 2002 - To: POTUS - From: Mitchell E. Daniels, Jr.	7	08/05/2002	P5;

This marker identifies the original location of the withdrawn item listed above. For a complete list of items withdrawn from this folder, see the Withdrawal/Redaction Sheet at the front of the folder.

COLLECTION:
Executive Clerk, Office Of the

SERIES:
Saunders, G. Timothy (Tim) - Bill Files

FOLDER TITLE:
08/06/2002 [H.R. 3009] [771371] [1]

FRC ID:
6360

OA Num.:
9467

NARA Num.:
9358

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advise between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

Deed of Gift Restrictions

A. Closed by Executive Order 13526 governing access to national security information.
B. Closed by statute or by the agency which originated the document.
C. Closed in accordance with restrictions contained in donor's deed of gift.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

This Document was withdrawn on 9/26/2013 by TDF

Attachment

Other Significant Provisions of H.R. 3009

Trade Promotion Authority (TPA)

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Farmers and Ranchers. The enrolled bill establishes a Trade Adjustment Assistance for Farmers program, to be administered by the Department of Agriculture, which would provide cash payments not to exceed $10,000 over any 12-month period to certain agricultural commodity producers adversely affected by imports. These eligible producers would also be entitled to employment and training services under the TAA for Workers programs administered by Labor. H.R. 3009 authorizes and appropriates $90 million per year for each of FYs 2003-2007.

TAA for Firms. The enrolled bill reauthorizes the Commerce Department's program of TAA for firms through September 30, 2007, and authorizes $16 million annually for the program.

Andean Trade Preference Act (ATPA)

The ATPA, which expired on December 4, 2001, provides preferential trade benefits to four Andean countries – Bolivia, Colombia, Ecuador, and Peru. H.R. 3009 makes the ATPA benefits retroactive to last December's expiration, renames it the Andean Trade Promotion and Drug Eradication Act (ATPDEA), and reauthorizes it until December 31, 2006. The enrolled bill authorizes the President to grant duty-free treatment for certain additional articles that are currently excluded, if he determines that the article is not import-sensitive, i.e., certain footwear, petroleum products, watches and watch parts, and certain leather goods. The enrolled bill also authorizes duty-free benefits to tuna packed in airtight pouches, that is harvested by U.S. or Andean-flagged vessels. (Canned tuna will continue to be excluded from ATPA duty-free benefits.) The current tuna tariff-rate quota for all countries is revised to be calculated based on U.S. consumption, rather than production.

H.R. 3009 authorizes apparel articles assembled in ATPA beneficiary countries from U.S. fabrics formed or knit-to-shape in the United States and dyed and finished in the United States to receive duty-free and quota-free treatment. Apparel articles assembled from regional fabrics would also receive preferential treatment, subject to a quantitative limit. H.R. 3009 also includes penalties for exporters and countries that engage in transshipment of apparel articles from an ATPA beneficiary country. The enrolled bill also includes additional eligibility criteria for the new benefits, enforcement, and reporting provisions.

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SS/ RM NO. ____________

WHITE HOUSE STAFFING MEMORANDUM

Date: 08-05-02 5:00 PM ACTION / CONCURRENCE / COMMENT DUE BY: 08-05-02 7:00 PM

Subject: ENROLLED BILL MEMO H.R. 3009 -- TRADE ACT OF 2002

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT OK	☑	☐	HUBBARD OK	☑	☐
CARD OK	☑	☐	IRASTORZA	☐	☐
BARTLETT OK	☑	☐	JOHNSON	☐	☐
BLAKEMAN	☐	☐	LINDSEY OK	☑	☐
BOLTEN NC	☑	☐	MARBURGER	☐	☐
BRIDGELAND	☐	☐	MIERS	☐	☐
CALIO	☑	☐	RICE OK	☑	☐
CONNAUGHTON	☐	☐	RIDGE	☐	☐
DANIELS	☐	☑	ROVE OK	☑	☐
FLEISCHER	☐	☑	SPELLINGS edr	☑	☐
GERSON	☐	☑	CLERK	☐	☑
GONZALES OK	☑	☐	______	☐	☐
HAGIN	☐	☐	______	☐	☐
HAWKINS	☑	☐	______	☐	☐

REMARKS:
PLEASE FORWARD COMMENTS TO JIM JUKES, X 53458, OR FAX 56148, BY 7:00 P.M., TODAY, AUGUST 5, 2002, WITH A COPY TO THE STAFF SECRETARY'S OFFICE. THANK YOU.

OK-No Comment

RESPONSE:

Harriet E. Miers
Assistant to the President
and Staff Secretary
Ext. 62702

Wage Insurance for Older Workers. H.R. 3009 creates a five-year demonstration program for certain TAA-eligible workers in firms with a significant number of workers aged 50 and older without easily transferrable skills. Under the program, these workers may choose (in lieu of other TAA benefits) to receive 50 percent of the difference between old and new earnings, up to $10,000 over 2 years. To qualify, workers must be reemployed within 26 weeks of separation at wages of not more than $50,000 per year.

Farmers and Ranchers. The enrolled bill establishes a Trade Adjustment Assistance for Farmers program, to be administered by the Department of Agriculture, which would provide cash payments not to exceed $10,000 over any 12-month period to certain agricultural commodity producers adversely affected by imports. These eligible producers would also be entitled to employment and training services under the TAA for Workers programs administered by Labor. H.R. 3009 authorizes and appropriates $90 million per year for each of FYs 2003-2007.

TAA for Firms. The enrolled bill reauthorizes the Commerce Department's program of TAA for firms through September 30, 2007, and authorizes $16 million annually for the program.

Andean Trade Preference Act (ATPA)

The ATPA, which expired on December 4, 2001, provides preferential trade benefits to four Andean countries – Bolivia, Colombia, Ecuador, and Peru. H.R. 3009 makes the ATPA benefits retroactive to last December's expiration, renames it the Andean Trade Promotion and Drug Eradication Act (ATPDEA), and reauthorizes it until December 31, 2006. The enrolled bill authorizes the President to grant duty-free treatment for certain additional articles that are currently excluded, if he determines that the article is not import-sensitive, i.e., certain footwear, petroleum products, watches and watch parts, and certain leather goods. The enrolled bill also authorizes duty-free benefits to tuna packed in airtight pouches, that is harvested by U.S. or Andean-flagged vessels. (Canned tuna will continue to be excluded from ATPA duty-free benefits.) The current tuna tariff-rate quota for all countries is revised to be calculated based on U.S. consumption, rather than production.

H.R. 3009 authorizes apparel articles assembled in ATPA beneficiary countries from U.S. fabrics formed or knit-to-shape in the United States and dyed and finished in the United States to receive duty-free and quota-free treatment. Apparel articles assembled from regional fabrics would also receive preferential treatment, subject to a quantitative limit. H.R. 3009 also includes penalties for exporters and countries that engage in transshipment of apparel articles from an ATPA beneficiary country. The enrolled bill also includes additional eligibility criteria for the new benefits, enforcement, and reporting provisions.

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SS/ RM NO. ____________

WHITE HOUSE STAFFING MEMORANDUM

Date: 08-05-02 5:00 PM ACTION / CONCURRENCE / COMMENT DUE BY: 08-05-02 7:00 PM

Subject: ENROLLED BILL MEMO H.R. 3009 – TRADE ACT OF 2002

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT OK	☑	☐	HUBBARD OK	☑	☐
CARD OK	☑	☐	IRASTORZA	☐	☐
BARTLETT OK	☑	☐	JOHNSON	☐	☐
BLAKEMAN	☐	☐	LINDSEY OK	☑	☐
BOLTEN NC	☑	☐	MARBURGER	☐	☐
BRIDGELAND	☐	☐	MIERS	☐	☐
CALIO	☑	☐	RICE OK	☑	☐
CONNAUGHTON	☐	☐	RIDGE	☑	☐
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GERSON	☐	☑	CLERK	☐	☑
GONZALES OK	☑	☐	____________	☐	☐
HAGIN	☐	☐	____________	☐	☐
HAWKINS	☑	☐	____________	☐	☐

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