FOIA Number: 2017-0401-F

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OA/ID Number: 10603

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[Fast Track Negotiating Authority]

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SEC. 1. SHORT TITLE.

This act may be cited as the "Reciprocal Trade Agreements Authority Act of 1997."

SEC. 2. TRADE NEGOTIATING OBJECTIVES.

(a) OVERALL TRADE NEGOTIATING OBJECTIVES. - The trade negotiating objectives of the United States for agreements subject to the provisions of section 3 are -

(1) to obtain more open, equitable, and reciprocal market access;

(2) to obtain the reduction or elimination of barriers and other trade-distorting policies and practices;

(3) to further strengthen the system of international trading disciplines and procedures;

(4) to foster economic growth and full employment in the United States and the global economy;

(5) to develop, strengthen, and clarify rules and disciplines on restrictive or trade-distorting policies and practices;

(6) to address trade-related foreign government

policies and practices regarding labor, the environment, and other matters which decrease market opportunities for United States exports or distort or impede United States trade. notified

(b) PRINCIPAL TRADE NEGOTIATING OBJECTIVES.-

(1) SPECIFIC BARRIERS. - The principal negotiating objectives of the United States regarding specific trade barriers and other trade distortions are to expand competitive market opportunities for United States exports and to obtain more open and fair conditions of trade by reducing or eliminating specific tariff and nontariff trade barriers and trade-related policies and practices of ~~foreign~~ governments directly related to trade that ~~which~~ distort or impede United States trade. look to legislative history

(2) TRADE IN SERVICES. - The principal negotiating objective of the United States regarding trade in services is to reduce or eliminate barriers to international trade in services, including regulatory and other barriers that deny national treatment and restrict the establishment and operations of service suppliers.

(3) FOREIGN DIRECT INVESTMENT. -

The principal negotiating objective of the United States regarding foreign direct investment is to reduce or eliminate artificial or trade-distorting barriers to U.S. foreign direct investment by -

(i) reducing or eliminating exceptions to the principle of national treatment;

(ii) freeing the transfer of funds relating to investments;

(iii) reducing or eliminating performance requirements and other barriers to the establishment and operation of investments;

(iv) affirming international legal standards for expropriation and compensation for expropriation; and

(v) providing meaningful procedures for resolving investment disputes.

(4) INTELLECTUAL PROPERTY. - The principal negotiating objectives of the United States regarding trade-related intellectual property are -

(A) to further promote adequate and effective protection of intellectual property rights, including through -

(i) ensuring full and complete implementation globally of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15)), and achieving improvements in the standards of that Agreement;

(ii) providing strong protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property;

(iii) preventing or eliminating discrimination with respect to matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights; and

(iv) providing strong enforcement of intellectual property rights, including through accessible, expeditious, and effective civil and criminal enforcement mechanisms; and

(B) to secure fair, equitable, and nondiscriminatory market access opportunities for United States persons that rely upon intellectual property protection.

(5) TRANSPARENCY. - The principal negotiating objective of the United States with respect to transparency is to obtain broader application of the principle of transparency through -

(A) increased public access to information regarding trade issues;

(B) clarity in the costs and benefits of trade policy actions; and

(C) the observance of open and equitable procedures in trade policy matters by parties to international trade agreements. only?

(6) AGRICULTURE. - The principal negotiating objectives of the United States with respect to agriculture are to achieve, on an expedited basis, more open and fair conditions of trade in agricultural commodities by -

restrict

(A) reducing or eliminating tariffs which decrease market opportunities for United States exports;

(B) reducing or eliminating subsidies which decrease market opportunities for United States exports or distort or impede United States trade;

(C) developing, strengthening, and clarifying rules and disciplines on practices which decrease United States market access opportunities or distort or impede United States trade, including -

(i) activities of state trading enterprises and other administrative mechanisms,

(ii) unnecessary restrictions or commercial requirements affecting new technologies,

(iii) unnecessary, arbitrary, or unjustifiable sanitary and phytosanitary measures.

SEC. 3. TRADE AGREEMENTS AUTHORITY.

(a) AGREEMENTS REGARDING TARIFF BARRIERS. -

(1) IN GENERAL. - Whenever the President

determines that one or more existing duties or other import restrictions of any foreign country or the United States are burdening or restricting United States trade and that the purposes and policies of this act will be promoted thereby, the President -

(A) on or before October 1, 2005 may enter into trade agreements with foreign countries; and tariff authority

(B) may, subject to paragraphs (2) and (3), proclaim -

(i) such modification or continuance of any existing duty,

(ii) such continuance of existing duty-free or excise treatment, or

(iii) such additional duties;

as the President determines to be required or appropriate to carry out any such trade agreement.

(2) LIMITATIONS. - No proclamation may be made under paragraph (1) that -

(A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on the date of the enactment of this Act) to a rate of duty which is less than 50 percent of the rate of such duty that applies on such date of enactment;

(B) provides for a reduction in duty on an article to take effect on a date that is more than 10 years after the first reduction that is proclaimed to carry out a trade agreement with respect to such article; or

(C) increases any rate of duty above the rate that applied on the date of the enactment of the Uruguay Round Agreements Act.

(3) AGGREGATE REDUCTION; EXEMPTION FROM STAGING. -

(A) AGGREGATE REDUCTION. - Except as provided in subparagraph (B), the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a trade agreement entered into under paragraph (1) shall not exceed the aggregate reduction which would have been in effect on such day if a reduction of 3 percent ad valorem or a reduction of one-tenth of the total reduction, whichever is greater, had taken effect on the effective date of the first reduction proclaimed under paragraph (1) to carry out such agreement with respect to such article.

(B) EXEMPTION FROM STAGING. - No staging is required under subparagraph (A) with respect to a duty reduction that is proclaimed under paragraph (1) for an article of a kind that is not produced in the United States. The United States International Trade Commission shall advise the President of the identity of articles that may be exempted from staging under this paragraph.

(4) ROUNDING. - If the President determines that such action will simplify the computation of reductions under paragraph (3), the President may round an annual reduction by an amount equal to the lesser of -

(A) the difference between the reduction without regard to this paragraph and the next lower whole number; or

(B) one-half of 1 percent ad valorem.

(5) OTHER LIMITATIONS. - A rate of duty reduction or increase that may not be proclaimed by

reason of paragraph (2) may take effect only if a provision authorizing such reduction or increase is included within an implementing bill provided for under section 5 and that bill is enacted into law.

(6) OTHER TARIFF MODIFICATIONS. -

(A) Subject to the consultation and layover requirements of section 115 of the Uruguay Round Agreements Act, the President may proclaim the modification of any duty or staged rate reduction of any duty set forth in Schedule XX, as defined in section 2(5) of that Act, if the United States agrees to such modification or staged rate reduction in a negotiation for the reciprocal elimination or harmonization of duties under the auspices of the World Trade Organization.

(B) The authority provided in paragraph (A) is in addition to the authority conferred on the President pursuant to Section 111(b) of the Uruguay Round Agreements Act and the other provisions of this subsection.

(b) AGREEMENTS REGARDING TARIFF AND NON-

TARIFF BARRIERS. -

(1) IN GENERAL. - Whenever the President determines that-

(A) any duty or other import restriction imposed by any foreign country or the United States or any other barrier to, or other distortion of, international trade burdens or restricts the foreign trade of the United States or adversely affects the United States economy; or

(B) the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect;

and that the purposes and policies of this act will be promoted thereby, the President may, during the period beginning on January 1, 1998, and ending on October 1, 2005, enter into a trade agreement with foreign countries providing for -

(i) the reduction or elimination of such duty, restriction, barrier, or other distortion, or

(ii) the prohibition of, or limitation on the imposition of, such barrier or other distortion.

(2) CONDITIONS. - A trade agreement may be entered into under this subsection only if the President satisfies the conditions set forth in section 5.

(3) BILLS QUALIFYING FOR TRADE AUTHORITIES PROCEDURES. - The provisions of section 151 of the Trade Act of 1974 (in this act referred to as "trade authorities procedures") apply to implementing bills (as defined in subsection (b)(1) of such section) submitted with respect to trade agreements entered into under section (3)(b) of this act.

SEC. 4. NOTICE AND CONSULTATIONS.

(a) NOTICE AND CONSULTATION BEFORE NEGOTIATION. - The President, at least 90 calendar days before initiating negotiations on any agreement that is subject to the provisions of section 3(b), shall -

(1) provide written notice to the Congress of the President's intent to enter into the negotiations and set forth therein the date the President intends to initiate such negotiations; and

(2) before and after submission of the notice, consult regarding the negotiations with the Committee on Finance

of the Senate and the Committee on Ways and Means of the House of Representatives and such other committees of the House and Senate as the President deems appropriate.

(b) CONSULTATION WITH CONGRESS BEFORE AGREEMENTS ENTERED INTO. -

(1) CONSULTATION. - Before entering into any trade agreement under section 3(b), the President shall consult with -

(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate; and

(B) each other committee of the House and the Senate, and each joint committee of the Congress, which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement.

(2) SCOPE. - The consultation described in paragraph (1) shall include consultation with respect to -

(A) the nature of the agreement;

(B) how and to what extent the agreement will

any reference to time and process of negotiation in the bill? Advisory comm 30 days achieve the applicable purposes and policies of this act; and

(C) all matters relating to the implementation of the agreement under section 5.

(c) ADVISORY COMMITTEE REPORTS. - The report required under section 135(e)(1) of the Trade Act of 1974 regarding any trade agreement entered into under section 3~~(a)~~ ~~or~~ (b) of this act shall be provided to the President, the Congress, and the United States Trade Representative not later than 30 days after the date on which the President notifies the Congress under section 5(a)(1)(A) of the President's intention to enter into the agreement.

SEC. 5. IMPLEMENTATION OF TRADE AGREEMENTS.

(a) IN GENERAL. -

(1) NOTIFICATION AND SUBMISSION. - Any agreement entered into under section 3(b) shall enter into force with respect to the United States if (and only if) -

(A) the President, at least 90 calendar days before the day on which the President enters into the trade agreement, notifies the House of

Representatives and the Senate of the President's intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(B) after entering into the agreement, the President submits a copy of the final legal text of the agreement, together with -

(i) a draft of an implementing bill;

(ii) a statement of any administrative action proposed to implement the trade agreement; and

(iii) the supporting information described in paragraph (2); and

(C) the implementing bill is enacted into law.

(2) SUPPORTING INFORMATION. - The supporting information required under paragraph (1)(C)(iii) consists of -

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement -

(i) asserting that the agreement makes progress in achieving the applicable purposes and policies of this act; and

(ii) setting forth the reasons of the President regarding -

(I) how and to what extent the agreement makes progress in achieving the applicable purposes and policies referred to in clause (i), and why and to what extent the agreement does not achieve other applicable purposes and policies;

(II) whether and how the agreement changes provisions of an agreement previously negotiated;

(III) how the agreement serves the interests of United States commerce; and

(IV) why the implementing bill and proposed administrative action is required or appropriate to carry out the agreement.

(3) RECIPROCAL BENEFITS. - To ensure that a

Could list those required and those ~~appropriate~~ necessary foreign country which receives benefits under a trade agreement entered into under section 3(b) is subject to the obligations imposed by such agreement, the President shall recommend to Congress in the implementing bill and statement of administrative action submitted with respect to such agreement that the benefits and obligations of such agreement apply solely to the parties to such agreement, if such application is consistent with the terms of such agreement. The President may also recommend with respect to any such agreement that the benefits and obligations of such agreement not apply uniformly to all parties to such agreement, if such application is consistent with the terms of such agreement.

(b) LIMITATIONS ON TRADE AUTHORITIES PROCEDURES. -

(1) FOR LACK OF CONSULTATIONS. -

(A) The trade authorities procedures shall not apply to any implementing bill submitted with respect to a trade agreement entered into under section 3(b) if both Houses of Congress separately agree to a procedural disapproval resolution within any 60-day period.

(B) For purposes of this paragraph, the term "procedural disapproval resolution" means a resolution of either House of the Congress, the sole matter after the resolving clause of which is as follows: "That the President has failed or refused to consult with the Congress on trade negotiations and trade agreements in accordance with section 4(b) of the Reciprocal Trade Agreements Authority Act of 1997 and, therefore, the provisions of section 151 of the Trade Act of 1974 shall not apply to any implementing bill submitted with respect to any trade agreement entered into under section 3(b) of the Trade Agreements Authority Act 1997.".

(2) PROCEDURES FOR CONSIDERING RESOLUTIONS. -

(A) PROCEDURAL DISAPPROVAL RESOLUTIONS -

(i) in the House of Representatives -

(I) shall be introduced by the chairman or ranking minority member of the Committee on Ways and Means or the chairman or ranking minority member of the Committee on Rules;

(II) shall be jointly referred to the Committee on Ways and Means and the Committee on Rules; and

(III) may not be amended by either Committee; and

(ii) in the Senate shall be original resolutions of the Committee on Finance.

(B) The provisions of section 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to procedural disapproval resolutions.

(C) It is not in order for the House of Representatives to consider any procedural disapproval resolution not reported by the Committee on Ways and Means and the Committee on Rules.

(c) RULES OF HOUSE REPRESENTATIVES AND

SENATE. - Subsection (b) of this section and section 3(c) are enacted by the Congress -

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and such are deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

SEC. 6. TREATMENT OF CERTAIN TRADE AGREEMENTS.

(a) EXTENDED NEGOTIATIONS IN THE URUGUAY ROUND. - Notwithstanding section 3(b)(3) and section 5(b), the provisions of section 4(a) shall not apply to an agreement that results from negotiations identified in section 135 of the Uruguay Round Implementation Act (19 U.S.C. 3555) that were commenced before the date of the enactment of this Act.

(b) AGREEMENT WITH CHILE. - If an agreement to which section 3(b) applies is entered into with Chile after the date of the enactment of this Act and results from negotiations that were commenced before such date of enactment -

(1) the applicability of the trade authorities procedures to such agreement shall be determined without regard to the requirements of section 4(a); and

(2) if such agreement is entered into before June 15, 1998, section 5(a)(1)(A) shall be applied by substituting "30" for "90".

SEC. 7. CONFORMING AMENDMENTS.

(a) IN GENERAL. - Title I of the Trade Act of 1974 (19 U.S.C. 211 and following) is amended as follows -

(1) Section 151(b)(1) (19 U.S.C. 2191(b)(1)) is amended by striking "or section 282 of the Uruguay Round Agreements Act" and inserting "section 282 of the Uruguay Round Agreements Act, or section 5 of the Trade Agreements Authority Act of 1997".

(2) Section 131 (19 U.S.C. 2151) is amended -

(A) in subsection (a) -

(i) in paragraph (1), by striking "section

123 of this Act or section 1102 (a) or (c) of the Omnibus Trade and Competitiveness Act of 1988," and inserting "section 123 of this Act, section 1102 (a) or (c) of the Omnibus Trade and Competitiveness Act of 1988, or section 3 (a) or (b) of the Reciprocal Trade Agreements Authority Act of 1997,"

(ii) in paragraph (2), by inserting "or section 3 (a) or (b) of the Reciprocal Trade Agreements Authority Act of 1997" after "1988";

(B) in subsection (b), by inserting "of the Omnibus Trade and Competitiveness Act of 1988 or section 3(a)(3)(A) of the Reciprocal Trade Agreements Authority Act of 1997" before the end period; and

(C) in subsection (c), by striking "of this Act or section 1102 of the Omnibus Trade and Competitiveness Act of 1988," and inserting "of this Act, section 1102 of the Omnibus Trade and Competitiveness Act of 1988, or section 3 of the

Reciprocal Trade Agreements Authority Act of 1997."

(3) Sections 132, 133(a), and 134(a) (19 U.S.C. 2152, 2153(a), and 2154(a)) are each amended by striking "or section 1102 of the Omnibus Trade and Competitiveness Act of 1988," each place it appears and inserting ", section 1102 of the Omnibus Trade and Competitiveness Act of 1988, or section 3 of the Reciprocal Trade Agreements Authority Act of 1997,".

(4) Section 134(b) (19 U.S.C. 2154(b) is amended by inserting "or section 3 of the Reciprocal Trade Agreements Authority Act of 1997" after "1988".

(5) Section 135(a)(1)(A) (19 U.S.C. 2155(a)(1)(A)) is amended by inserting "or section 3 of the Reciprocal Trade Agreements Authority Act of 1997" after "1988".

(6) Section 135(e) (19 U.S.C. 2155(e)) is amended -

(A) in paragraph (1), by inserting "or section 3 of the Reciprocal Trade Agreements Authority Act of 1997" after "1988" the first two places it appears, and by inserting "or section 5(a)(1)(A) of the Reciprocal Trade Agreements Authority Act of 1997" after "1988" the third place it appears; and

(B) in paragraph (2), by inserting "or section 3 of the Reciprocal Trade Agreements Authority Act of 1997" after "1988".

(b) APPLICATION OF SECTIONS 125, 126, AND 127 OF THE TRADE ACT OF 1974. - For purposes of applying sections 125, 126, and 127 of the Trade Act of 1974 (19 U.S.C. 2135, 2136(a), and 2137) -

(1) any trade agreement entered into under section 3 shall be treated as an agreement entered into under section 101 or 102, as appropriate, of the Trade Act of 1974 (19 U.S.C. 2111 or 2112); and

(2) any proclamation or Executive order issued pursuant to a trade agreement entered into under section 3 shall be treated as a proclamation or Executive order issued pursuant to a trade agreement entered into under section 102 of the Trade Act of 1974.

HIGHLY SENSITIVE DRAFT
EYES ONLY

Section-by-Section Analysis

Section 1. Short title.

Section 2. Negotiating objectives

This section of the proposed bill lays out the "overall" and "principal" objectives the Congress establishes to guide U.S. negotiators in hammering out fast track trade agreements. This general structure parallels that included in the 1988 fast track authority, which in turn was based on a similar format in the original 1974 fast track legislation.

Much of the text is drawn from language negotiated between USTR and House Republicans during 1995. The key provision is the first "principal" objective, relating to "specific barriers." This language was understood in 1995 to encompass trade-related environment and labor measures, even though the text does not say so. Labor and environment are mentioned explicitly only in the final "overall" objective but the language of the two provisions are otherwise very close -- making clear that the principal objectives encompass labor and environment as well.

While the language essentially reflects our negotiations with Chairman Archer in 1995, we have made changes that make our draft a bit less restrictive on the environment and labor issues. In particular, our proposal changes the principal objective on "specific barriers" -- as well as the final "overall" objective -- to say that environmental and labor measures subject to fast track negotiations must simply be "trade-related" rather than "directly" or "specifically" related to trade as the 1995 text put it. This change may be somewhat helpful on the Democratic side, but could be viewed as backtracking by Republicans.

The bifurcation between "overall" and "principal" objectives is consistent with past fast track legislation. The House Republicans used this bifurcation in 1995 to limit the President's discretion in the area of labor and the environment by requiring that all provisions of a fast-track implementing bill be "directly related to" the principal negotiating objectives. Under that approach, the principal objectives serve to limit the implementing legislation, while the text of the overall objectives is more advisory in nature.

It is worth noting that we have made a number of other, less controversial changes from the Republican 1995 bill in both the overall and principal objectives. For example, we have added a principal objective relating to agriculture. (Such an objective was contained in the 1988 Act as well.) Consistent with the approach in the 1995 bill negotiated with Chairman Archer, the principal negotiating objectives are general in nature. We expect we will hear from various business and other interest groups that would like their objectives explicitly mentioned in the bill.

Section 3. Proclamation Authority and Fast Track Implementing Bills.

The first portion of this section provides the President with specific authority to lower U.S. tariffs -- without seeking further approval from the Congress -- in return for reciprocal concessions from our trade partners. Much of the language on this subject is derived from earlier iterations of tariff authority dating back to the mid-1930s. We have added a provision that will allow the President to conclude new sectoral tariff deals (like the deal we concluded on ITA in December).

A second portion of the section (sec. 3(b)(3)) deals with the kinds of provisions that may be included in fast track implementing bills. This is a critical provision as it gives flexibility to attract support necessary for passage of legislation pursuant to fast track authority. The traditional formulation -- in the fast track authority from 1974 to 1994 -- was that implementing bills could include any provision the Congress believed was "necessary or appropriate" to implement the trade agreement.

That formulation worked well in helping to secure the votes necessary to enact each of the five fast track agreements presented to the Congress since 1979. But it was subject to criticism from House Republicans and Senators of both parties on the ground that the language permitted fast track implementing bills to become Christmas trees for trade and non-trade matters unrelated to the actual implementation of the agreement.

We worked with House Republicans in 1995 to draft language that would limit the Christmas tree problem without unduly jeopardizing approval of future trade agreements or crimping the President's ability to treat trade-related environmental and labor issues. We were unable to come to closure. The Republican proposal proved to be too limiting. First, it placed in doubt our ability to get future trade deals through the Congress (for example, it would not have allowed for the inclusion of worker trade adjustment assistance which was critical to attract Democratic support for the NAFTA). Second, it was seen on the Democratic side as a blatant effort to keep the Administration from addressing trade-related labor and environment matters.

Our proposed draft goes back to the original "necessary or appropriate" formulation (by referencing section 151 of the 1974 trade act -- which also contains all of the voting and timing procedures relevant to fast track). The 1995 Republican bill amended section 151 to require implementing provisions to be both: 1) "directly related" to a principal negotiating objective; and 2) "necessary" to implement the trade agreement. The Republican bill also allowed for the insertion of certain kinds of housekeeping provisions, like those defining state and federal responsibilities under the agreement and providing for oversight. In addition, the Republican bill provided for the insertion of necessary PAYGO provisions.

Our proposal de-links the implementing bill from the principal negotiating objectives. Moreover, our proposal also allows for the inclusion of non-"necessary" provisions in fast-track implementing bills. For both reasons, our proposed bill will be controversial from the Republican perspective.

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Finally, section 3(b)(1) also sets the duration for fast track. Our going-in position is that fast track should be in place through the end of the next President's term of office. Previous versions of fast track tended to be shorter in duration, and often provided that the President could extend the duration subject to Congressional disapproval. For example, the 1988 version lasted through mid-1991, with an extension through mid-1993, and then again through 1994. One reason the periods were short was to put pressure on our trading partners to reach quick deals in GATT negotiating rounds then underway. There is no round in progress at this time. Nonetheless, we would not be opposed to re-inclusion of an extension provision, particularly on a three plus four year basis.

Sections 4 and 5. Notice, Consultations, and Disapproval.

These sections of the bill set out the *quid pro quo* that the Congress exacts from the President in agreeing to an expedited "up or down" vote on fast track trade agreements. Sections 4 and 5 contain a number of provisions requiring the President to notify and consult with the Congress before and during the negotiation phase. The idea is to ensure that the Congress is fully integrated into the formulation of U.S. goals, strategies, and decision-making for each particular negotiation. In fact, Section 5 establishes an expedited procedure for Congress to withdraw fast track if it finds that the Administration is not adequately informing the Congress about the negotiations.

The language included in sections 4 and 5 roughly tracks that included in the 1988 legislation. (The 1988 act had somewhat different notice and consultation requirements for bilateral and multilateral negotiations, a distinction we and the Republicans agreed to drop.) In 1995, USTR agreed informally with House Republicans to add some consultation provisions beyond those required in the 1988 act. These were largely designed to elicit the Administration's intentions regarding its labor and environment objectives in specific negotiations. Our proposed bill does not include those provisions and we would expect the Republicans would add those back once the bill is introduced.

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Further consultation procedures and safeguards could be added if there is pressure to do so. It is worth noting that beginning in 1984, bilateral fast track trade negotiations were subject to an up-front veto by either the Ways and Means or Finance committee. (Neither our draft nor the 1995 Republican bill contains such a provision.)

Section 6. Exemption for Chile and WTO Negotiations.

This section provides that the pre-negotiation notice and consultation provisions required under section 4 do not apply to our negotiations with Chile (which got underway in 1995) and certain WTO negotiations.

Section 7. Conforming Amendments.

These are technical and non-controversial changes to other statutes required as a result of the new fast track provisions.

SEC. 1. SHORT TITLE.

This act may be cited as the "Trade Agreements Authority Act of 1997".

SEC. 2. TRADE NEGOTIATING OBJECTIVES.

(a) OVERALL TRADE NEGOTIATING OBJECTIVES. - The trade negotiating objectives of the United States for agreements subject to the provisions of section 3 are -

(1) to obtain more open, equitable, and reciprocal market access;

(2) to obtain the reduction or elimination of trade barriers and other trade distorting policies and practices which ~~are specifically related to trade and~~ decrease market opportunities for United States exports or distort or impede United States exports or imports;

(3) to further strengthen the system of international trading disciplines and procedures;

(4) to foster economic growth and full employment in the United States and the global economy;

(5) to develop, strengthen, and clarify rules and disciplines on trade-restrictive or trade-distorting import

and export practices which ~~are specifically related to trade and~~ decrease market opportunities for United States exports or distort or impede United States imports or exports; and

(6) to address ~~those aspects of~~ trade-related foreign government policies and practices regarding labor, the environment, and other matters which ~~are specifically related to trade and~~ decrease market opportunities for United States exports or distort or impede United States imports or exports.

(b) PRINCIPAL TRADE NEGOTIATING OBJECTIVES.-

(1) SPECIFIC BARRIERS. - The principal negotiating objectives of the United States regarding specific trade barriers and other trade distortions are to expand competitive markets opportunities for United States exports and to obtain more open and fair conditions of trade by reducing or eliminating specific tariff and nontariff trade barriers and trade-related policies and practices of foreign governments ~~directly related to trade that~~ which distort or impede United States imports or

exports.

(2) TRADE IN SERVICES. - The principal negotiating objectives of the United States regarding trade in services are -

(A) to reduce or eliminate barriers to international trade in services, including regulatory and other barriers that deny national treatment and restrict the establishment and operations of service suppliers; and

(B) in the negotiations on financial services conducted under the auspices of the World Trade Organization, to secure commitments, in a wide range of commercially important industrial and developing countries, to reduce or eliminate barriers to the supply of financial services, including barriers that deny national treatment and restrictions on the establishment and operation of financial service providers, as the condition for the United States -

(i) offering commitments to provide national treatment and market access in each of the financial services subsectors; and

(ii) making such commitments on a most-favored nation status.

(3) FOREIGN DIRECT INVESTMENT. - The principal negotiating objective of the United States regarding foreign direct investment is to reduce or eliminate artificial or trade-distorting barriers to foreign direct investment by -

(A) reducing or eliminating exceptions to the principal of national treatment;

(B) freeing the transfer of funds relating to investments;

(C) reducing or eliminating performance requirements;

(D) affirming international legal standards for expropriation and compensation for expropriation; and

(E) providing meaningful procedures for resolving investment disputes.

(4) INTELLECTUAL PROPERTY. - The principal negotiating objectives of the United States regarding trade-related intellectual property are -

(A) to further promote adequate and effective protection of intellectual property rights, including through -

(i) accelerating the implementation globally of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15)), and achieving improvements in the standards of that Agreement;

(ii) providing strong protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property;

(iii) preventing or eliminating discrimination with respect to matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights; and

(iv) providing strong enforcement of intellectual property rights, including through accessible, expeditious, and effective civil and criminal enforcement mechanisms; and

(B) to secure fair, equitable, and nondiscriminatory market access opportunities for United States persons that rely upon intellectual property protection.

(5) TRANSPARENCY. - The principal negotiating objective of the United States with respect to transparency is to obtain broader application of the principle of transparency through -

(A) increased public access to information regarding trade issues;

(B) clarity in the costs and benefits of trade policy actions; and

(C) the observance of open and equitable procedures in trade policy matters by parties to international trade agreements.

SEC. 3. TRADE AGREEMENTS AUTHORITY.

(a) AGREEMENTS REGARDING TARIFF BARRIERS. -

(1) IN GENERAL. - Whenever the President determines that one or more existing duties or other

import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes and policies of this act will be promoted thereby, the President -

(A) on or before October 1, 2005 ~~March 1, 2001~~ may enter into trade agreements with foreign countries; and

(B) may, subject to paragraphs (2) and (3), proclaim -

(i) such modification or continuance of any existing duty,

(ii) such continuance of existing duty-free or excise treatment, or

(iii) such additional duties, as the President determines to be required or appropriate to carry out any such trade agreement.

(2) LIMITATIONS. - No proclamation may be made under paragraph (1) that -

(A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on the date of the enactment of this Act) to a rate of duty which is less than 50 percent of the rate of such duty that applies on such date of enactment;

(B) reduces the rate of duty on an article over a period greater than 10 years after the first reduction that is proclaimed to carry out a trade agreement with respect to such article; or

(C) increases any rate of duty above the rate that applied on the date of the enactment of the Uruguay Round Agreements Act.

(3) AGGREGATE REDUCTION; EXEMPTION FROM STAGING. -

(A) AGGREGATE REDUCTION. - Except as provided in subparagraph (B), the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a trade agreement entered into under paragraph (1) shall not exceed the aggregate reduction which would have been in effect on such day if a reduction of 3 percent ad valorem or a reduction of one-tenth of the total reduction, whichever is greater, had taken effect on the effective date of the first reduction proclaimed under paragraph (1) to carry out such agreement with respect to such article.

(B) EXEMPTION FROM STAGING. - No staging is required under subparagraph (A) with respect to a duty reduction that is proclaimed under paragraph (1) for an article of a kind that is not produced in the United States. The United States International Trade Commission shall advise the President of the identity of articles that may be exempted from staging under this paragraph.

(4) ROUNDING. - If the President determines that such action will simplify the computation of reductions under paragraph (3), the President may round an annual reduction by an amount equal to the lesser of -

(A) the difference between the reduction without regard to this paragraph and the next lower whole number; or

(B) one-half of 1 percent ad valorem.

(5) OTHER LIMITATIONS. - A rate of duty reduction

or increase that may not be proclaimed by reason of paragraph (2) may take effect only if a provision authorizing such reduction or increase is included within an implementing bill provided for under section 5 and that bill is enacted into law.

(6) OTHER TARIFF MODIFICATIONS. - Subject to the consultation and layover requirements of section 115 of the Uruguay Round Agreements Act, the President may proclaim the modification of any duty or staged rate reduction of any duty set forth in Schedule XX, as defined in section 2(5) of that Act, if -

(A) the United States agrees to such modification or staged rate reduction in a negotiation for the reciprocal elimination or harmonization of duties under the auspices of the World Trade Organization; and

(B) such modification or staged reduction applies to the rate of duty on an article proposed for such modification or staged reduction by the appropriate advisory committees established under section 135 of the Trade Act of 1974.

(b) AGREEMENTS REGARDING TARIFF AND NON-TARIFF BARRIERS. -

(1) IN GENERAL. - Whenever the President determines that any duty or other import restriction imposed by any foreign country or the United States or any other barrier to, or other distortion of, international trade -

(A) unduly burdens or restricts the foreign trade of the United States or adversely affects the United States economy, or

(B) the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect, and that the purposes and policies of this act will be promoted thereby, the President may, during the period beginning on January 1, 1998, and ending on ~~March 1, 2001~~ October 1, 2005 ~~(or March 1, 2003, if trade authorities procedures are extended under subsection (c))~~, enter into a trade agreement with foreign countries providing for -

(i) the reduction or elimination of such duty, restriction, barrier, or other distortion, or

(ii) the prohibition of, or limitation on the imposition of, such barrier or other distortion.

(2) CONDITIONS. - A trade agreement may be entered into under this subsection only if ~~such agreement makes progress in meeting the specific objectives for the negotiations set forth in the written notice provided by the President under section 4(a)(1) and~~ the President satisfies the conditions set forth in section 5.

(3) BILLS QUALIFYING FOR TRADE AUTHORITIES PROCEDURES. - The provisions of section 151 of the Trade Act of 1974 (in this act referred to as "trade authorities procedures") apply to implementing bills (as defined in subsection (b)(1) of such section) ~~consisting only of -~~

~~(i) provisions approving a trade agreement entered into under this subsection and the statement of administrative action (if any) proposed to implement such trade agreement; and~~

~~(ii) provisions directly related to principle negotiating objectives set forth in section 2(b) achieved in such trade agreement entered into under this subsection, if those provisions are necessary for the operation or implementation of United States rights and obligations under such trade agreement.~~

~~(B) Notwithstanding subparagraph (A), trade authorities procedures may also apply to an implementing bill to which subparagraph (A) applies that contains any of the following -~~

~~(i) Provisions to define and clarify, or provisions that are integral to, the operation and effect of the trade agreement under United States law. Such provisions include, for example, the relationship between Federal and State law, the preclusion of a private right of action, judicial procedures, congressional guidance on future negotiations specifically provided for under the agreement, and the establishment of administrative, consulting,~~

~~and reporting mechanisms to carry out obligations of the United States under the agreement~~ submitted with respect to trade agreements entered into under section (3)(b) of this act.

~~(ii) Provisions necessary for purposes of complying with section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 in implementing the applicable trade agreement.~~

(c) EXTENSION DISAPPROVAL PROCESS FOR CONGRESSIONAL TRADE AUTHORITIES PROCEDURES. -

(1) IN GENERAL. - Except as provided in section 5(b)-

(A) the trade authorities procedures apply to implementing bills submitted with respect to trade agreements entered into under subsection (b) on or before December 15, 2005; ~~and~~

~~(B) the trade authorities procedures shall be extended to implementing bills submitted with respect to trade agreements entered into under~~

~~subsection (b) after December 15, 2001, and before December 15, 2005, if (and only if)-~~

~~(i) the President requests such extension under paragraph (2); and~~

~~(ii) neither House of the Congress adopts an extension disapproval resolution under paragraph (5) before December 15, 2001.~~

~~(2) REPORT TO CONGRESS BY THE PRESIDENT.- If the President is of the opinion that the trade authorities procedures should be extended to implementing bills described in paragraph (1)(B), the President shall submit to the Congress, not later than July 1, 2001, a written report that contains a request for such extension, together with-~~

~~(A) a description of all trade agreements that have been negotiated under subsection (b) and the anticipated schedule for submitting such agreements to the Congress for approval;~~

~~(B) a description of the progress that has been made in negotiations to achieve the purposes and policies of this act, and a statement that such~~

~~progress justifies the continuation of negotiations; and~~

~~(C) a statement of the reasons why the extension is needed to complete the negotiations.~~

~~(3) REPORT TO CONGRESS BY THE ADVISORY COMMITTEE. - The President shall promptly inform the Advisory Committee for Trade Policy and Negotiations established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) of the President's decision to submit a report to the Congress under paragraph (2). The Advisory Committee shall submit to the Congress as soon as practicable, but not later than August 1, 2001, a written report that contains -~~

~~(A) its views regarding the progress that has been made in negotiations to achieve the purposes and policies of this act; and~~

~~(B) a statement of its views, and the reasons therefor, regarding whether the extension requested under paragraph (2) should be approved or disapproved.~~

~~(4) REPORTS MAY BE CLASSIFIED.-The reports~~

~~submitted to the Congress under paragraphs (2) and (3), or any portion of the reports, may be classified to the extent the President determines appropriate.~~

~~(5) EXTENSION DISAPPROVAL RESOLUTIONS.-~~

~~(A) For purposes of this subsection, the term "extension disapproval resolution" means a resolution of either House of the Congress, the sole matter after the resolving clause of which is as follows: "That the ____ disapproves the request of the President for the extension, under section 2(c)(1)(B)(i) of the Trade Agreements Authority Act of 1997, of the provisions of section 151 of the Trade Act of 1974 to any implementing bill submitted with respect to any trade agreement entered into under section 2(b) of the Trade Agreements Authority Act of 1997 after December 15, 2001.", with the blank space being filled with the name of the resolving House of the Congress.~~

~~(B) Extension disapproval resolutions -~~

~~(i) may be introduced in either House of the Congress by any member of such House;~~

~~and~~

~~(ii) shall be jointly referred, in the House of Representatives, to the Committee on Ways and Means and the Committee on Rules.~~

~~(C) The provisions of sections 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to extension disapproval resolutions.~~

~~(D) It is not in order for –~~

~~(i) the Senate to consider any extension disapproval resolution not reported by the Committee on Finance;~~

~~(ii) the House of Representatives to consider any extension disapproval resolution not reported by the Committee on Ways and Means and the Committee on Rules; or~~

~~(iii) either House of the Congress to consider an extension disapproval resolution after December 14, 2001.~~

SEC. 4. CONSULTATIONS.

(a) NOTICE AND CONSULTATION BEFORE NEGOTIATION. - The President, at least 90 calendar days before initiating negotiations on any agreement that is subject to the provisions of section 3(b), shall -

(1) provide written notice to the Congress of the President's intent to enter into the negotiations and set forth therein the date the President intends to initiate such negotiations~~, the principal United States objectives for the negotiations, and whether the President intends to seek an agreement, or changes to an existing agreement~~; and

(2) before and after submission of the notice, consult regarding the negotiations with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives and such other committees of the House and Senate as the President deems appropriate.

(b) CONSULTATION WITH CONGRESS BEFORE AGREEMENTS ENTERED INTO. -

(1) CONSULTATION. - Before entering into any trade agreement under section 2(b), the President shall consult with -

(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate; and

(B) each other committee of the House and the Senate, and each joint committee of the Congress, which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement.

(2) SCOPE. - The consultation described in paragraph (1) shall include consultation with respect to -

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes and policies of this act; and

(C) all matters relating to the implementation of the agreement under section 5~~, including whether the agreement includes subject matter for which supplemental implementing legislation may be required which is not subject to trade authorities procedures~~.

(c) ADVISORY COMMITTEE REPORTS. - The report required under section 135(e)(1) of the Trade Act of 1974 regarding any trade agreement entered into under section 3(a) or (b) of this act shall be provided to the President, the Congress, and the United States Trade Representative not later than 30 days after the date on which the President notifies the Congress under section 5(a)(1)(A) of the President's intention to enter into the agreement.

SEC. 5. IMPLEMENTATION OF TRADE AGREEMENTS.

(a) IN GENERAL. -

(1) NOTIFICATION AND SUBMISSION. - Any agreement entered into under section 3(b) shall enter into force with respect to the United States if (and only if) -

(A) the President, at least 90 calendar days before the day on which the President enters into the trade agreement, notifies the House of Representatives and the Senate of the President's intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

~~(B) within 60 days after entering into the agreement, the President submits to the Congress a description of those changes to existing laws that the President considers would be required in order~~

~~to bring the United States into compliance with the agreement;~~

~~(C)~~(B) after entering into the agreement, the President submits a copy of the final legal text of the agreement, together with -

(i) a draft of an implementing bill;

(ii) a statement of any administrative action proposed to implement the trade agreement; and

(iii) the supporting information described in paragraph (2); and

(D) the implementing bill is enacted into law.

(2) SUPPORTING INFORMATION. - The supporting information required under paragraph (1)(C)(iii) consists of -

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement -

(i) asserting that the agreement makes progress in achieving the applicable purposes and policies of this act; and

(ii) setting forth the reasons of the President regarding -

(I) how and to what extent the agreement makes progress in achieving the applicable purposes and policies referred to in clause (i), and why and to what extent the agreement does not achieve other applicable purposes and policies;

(II) whether and how the agreement changes provisions of an agreement previously negotiated;

(III) how the agreement serves the interests of United States commerce; and

(IV) why the implementing bill and proposed administrative action is required or appropriate to carry out the agreement.

(3) RECIPROCAL BENEFITS. - To ensure that a foreign country which receives benefits under a trade agreement entered into under section 3(b) is subject to the

obligations imposed by such agreement, the President shall recommend to Congress in the implementing bill and statement of administrative action submitted with respect to such agreement that the benefits and obligations of such agreement apply solely to the parties to such agreement, if such application is consistent with the terms of such agreement. The President may also recommend with respect to any such agreement that the benefits and obligations of such agreement not apply uniformly to all parties to such agreement, if such application is consistent with the terms of such agreement.

(b) LIMITATIONS ON TRADE AUTHORITIES PROCEDURES. -

(1) FOR LACK OF CONSULTATIONS. -

(A) The trade authorities procedures shall not apply to any implementing bill submitted with respect to a trade agreement entered into under section 3(b) if both Houses of Congress separately agree to a procedural disapproval resolution within any 60-day period.

(B) For purposes of this paragraph, the term "procedural disapproval resolution" means a resolution of either House of the Congress, the sole matter after the resolving clause of which is as follows: "That the President has failed or refused to consult with the Congress on trade negotiations and trade agreements in accordance with section 4(b) of the Trade Agreements Authority Act of 1997 and, therefore, the provisions of section 151 of the Trade Act of 1974 shall not apply to any implementing bill submitted with respect to any trade agreement entered into under section 3(b) of the Trade Agreements Authority Act 1997.".

(2) PROCEDURES FOR CONSIDERING RESOLUTIONS. -

(A) PROCEDURAL DISAPPROVAL RESOLUTIONS -

(i) in the House of Representatives -

(I) shall be introduced by the chairman or ranking minority member of the Committee on Ways and Means or the chairman or ranking minority member of the Committee on Rules;

(II) shall be jointly referred to the Committee on Ways and Means and the Committee on Rules; and

(III) may not be amended by either Committee; and

(ii) in the Senate shall be original resolutions of the Committee on Finance.

(B) The provisions of section 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to procedural disapproval resolutions.

(C) It is not in order for the House of Representatives to consider any procedural disapproval resolution not reported by the Committee on Ways and Means and the Committee on Rules.

(c) RULES OF HOUSE REPRESENTATIVES AND SENATE. - Subsection (b) of this section and section 3(c) are enacted by the Congress -

(1) as an exercise of the rulemaking power of the

House of Representatives and the Senate, respectively, and such are deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

SEC. 6. TREATMENT OF CERTAIN TRADE AGREEMENTS.

(a) EXTENDED NEGOTIATIONS IN THE URUGUAY ROUND. - Notwithstanding section 3(b)(3) and section 5(b), the provisions of section 4(a) shall not apply to an agreement that results from negotiations identified in section 135 of the Uruguay Round Implementation Act (19 U.S.C. 3555) that were commenced before the date of the enactment of this Act.

(b) AGREEMENT WITH CHILE. - If an agreement to which section 3(b) applies is entered into with Chile after the date of the enactment of this Act and results from negotiations that were commenced before such date of enactment -

(1) the applicability of the trade authorities procedures to such agreement shall be determined without regard to the requirements of section 4(a); and

(2) if such agreement is entered into before June 15, 1998, section 5(a)(1)(A) shall be applied by substituting "30" for "90".

SEC. 7. CONFORMING AMENDMENTS.

(a) IN GENERAL. - Title I of the Trade Act of 1974 (19 U.S.C. 211 and following) is amended as follows -

(1) Section 151(b)(1) (19 U.S.C. 2191(b)(1)) is amended by striking "or section 282 of the Uruguay Round Agreements Act" and inserting "section 282 of the Uruguay Round Agreements Act, or section 5 of the Trade Agreements Authority Act of 1997".

(2) Section 131 (19 U.S.C. 2151) is amended -

(A) in subsection (a) -

(i) in paragraph (1), by striking "section 123 of this Act or section 1102 (a) or (c) of the Omnibus Trade and Competitiveness Act of 1988," and inserting "section 123 of this

Act, section 1102 (a) or (c) of the Omnibus Trade and Competitiveness Act of 1988, or section 3 (a) or (b) of the Trade Agreements Authority Act of 1997,"

(ii) in paragraph (2), by inserting "or section 3 (a) or (b) of the Trade Agreements Authority Act of 1997" after "1988";

(B) in subsection (b), by inserting "of the Omnibus Trade and Competitiveness Act of 1988 or section 3(a)(3)(A) of the Trade Agreements Authority Act of 1997" before the end period; and

(C) in subsection (c), by striking "of this Act or section 1102 of the Omnibus Trade and Competitiveness Act of 1988," and inserting "of this Act, section 1102 of the Omnibus Trade and Competitiveness Act of 1988, or section 3 of the Trade Agreements Authority Act of 1997."

(3) Sections 132, 133(a), and 134(a) (19 U.S.C. 2152, 2153(a), and 2154(a)) are each amended by striking "or section 1102 of the Omnibus Trade and Competitiveness Act of 1988," each place it appears and

inserting ", section 1102 of the Omnibus Trade and Competitiveness Act of 1988, or section 3 of the Trade Agreements Authority Act of 1997,".

(4) Section 134(b) (19 U.S.C. 2154(b) is amended by inserting "or section 3 of the Trade Agreements Authority Act of 1997" after "1988".

(5) Section 135(a)(1)(A) (19 U.S.C. 2155(a)(1)(A)) is amended by inserting "or section 3 of the Trade Agreements Authority Act of 1997" after "1988".

(6) Section 135(e) (19 U.S.C. 2155(e)) is amended -

(A) in paragraph (1), by inserting "or section 3 of the Trade Agreements Authority Act of 1997" after "1988" the first two places it appears, and by inserting "or section 5(a)(1)(A) of the Trade Agreements Authority Act of 1997" after "1988" the third place it appears; and

(B) in paragraph (2), by inserting "or section 3 of the Trade Agreements Authority Act of 1997" after "1988".

(b) APPLICATION OF SECTIONS 125, 126, AND 127

OF THE TRADE ACT OF 1974. - For purposes of applying sections 125, 126, and 127 of the Trade Act of 1974 (19 U.S.C. 2135, 2136(a), and 2137) -

(1) any trade agreement entered into under section 3 shall be treated as an agreement entered into under section 101 or 102, as appropriate, of the Trade Act of 1974 (19 U.S.C. 2111 or 2112); and

(2) any proclamation or Executive order issued pursuant to a trade agreement entered into under section 3 shall be treated as a proclamation or Executive order issued pursuant to a trade agreement entered into under section 102 of the Trade Act of 1974.

Extension of Fast Track Trade Negotiating Authority

What Is Fast Track?

The short answer is that it is an expedited procedure for Congressional consideration of trade agreements. The two essential features of any fast track authority are: (1) a vote on implementing legislation within a fixed period of time, and (2) an up or down vote, with no amendments.

Trade Negotiating Authority

The Constitution gives Congress exclusive authority to set tariffs and enact other legislation governing international trade. The President has the Constitutional authority to negotiate international agreements. If the President negotiates a trade agreement that requires changes in U.S. tariffs or in other domestic laws, that trade agreement's implementing legislation must be submitted to Congress--or the President must have Congress' advance approval of such changes. Tariff-cutting authority is one instance where Congress has often granted the President prior approval and such authority has been included in all of the recent grants of fast track authority. For changes implementing other provisions of a trade agreement, fast track provides for a time certain vote and that vote is on the total package, with no amendments.

Historical Background to Fast Track

For over 60 years, ~~the~~ Congress and ~~the~~ President have recognized that the negotiation and implementation of trade agreements require special cooperation. In the aftermath of the record-high rates of the Smoot-Hawley Tariff Act of 1930 and the Depression they helped create, both the Congress and the President recognized that only by working closely together could trade barriers be torn down and markets opened to U.S. goods and services. This new attitude was first reflected in the Reciprocal Trade Agreements Act of 1934, giving the President authority to both negotiate tariff cutting agreements and to implement them without further Congressional approval.

In recent years, as tariffs became less of an obstacle to trade and many of our trading partners sought to protect their domestic markets by erecting non-tariff barriers, the scope of trade negotiations broadened and by agreement between the Nixon Administration and the Congress, fast track was created to accomodate this broader trade agenda. Specifically, it was first embodied in the Trade Act of 1974 to deal with the Tokyo Round negotiations called for in the GATT. Fast track procedures for approving trade agreements have been renewed by Congress in 1979, 1984, 1988, 1991, and most recently in 1993. As a result, Presidents have had fast track negotiating authority continuously from January 1975 until April 1994, with a brief hiatus for eight months in 1988.

Fast Track Is Essential to Successful Trade Negotiations

In exchange for the expedited consideration of implementing legislation, Congress has established a number of procedural safeguards that guarantee it a meaningful role both before and during the negotiating process and, equally important, in determing how to implement trade agreements. Requests for fast track have always included exstensive notification and consultation requirements, both for Congress itself and for private sector advisory committees. In every trade agreement negotiated under fast track, Congress has been an active participant in identifying negotiating objectives, monitoring the actual negotiations, and drafting implementing legislation.

To apply fast track to a trade agreement, whether sectoral, bilateral or multilateral, the President must notify Congress in advance of his intention to sign such an agreement. For most previous grants, the advance notice requirement was 90 days; for the Uruguay Round, because it was such a massive agreement, the notice requirement was set at 120 days. Even before the President signals his intention to enter into an agreement, the private sector advisory committees are required to report to both Congress and the President on their views as to whether the agreement meets U.S. negotiating objectives. Further, for bilateral trade agreements, the Congress must be given advance notice of the President's intent to begin negotiations. During the next 60 legislative days, either the House Ways and Means Committe or the Senate Finance Committee can vote to deny fast track for the proposed bilateral.

Once the negotiations have been concluded and the President has signed it, the Congress and the Administration begin a period of extensive informal discussions on the drafting of the implementing legislation. This process, reflecting the growing complexity of trade agreements, has involved an ever increasing number of committees of jurisdiction and interested Members. In addition, the President is required to spell out precisely how he intends to use his existing regulatory authority in implementing the agreement. And, of course, Congress retains the right to vote down an agreement if, after all of the consultations, it still finds the package unacceptable.

Additional Congressional prerogatives include a special procedure for revoking fast track if the President fails to meet the consultation requirements. Finally, in recent instances where fast track authority has been granted and extensions included, either House has retained the right to disapprove of such extensions provided that either the House Ways and Means Committee or the Senate Finance Committee have reported out an "extension disapproval resolution."

Why Fast Track Is Essential To Trade Negotiations

Fast track procedures reflect an Executive-Congressional understanding that trade agreements to open markets and tear down tariff barriers are the product of difficult negotiations and that permitting an entire agreement to be subject to individual amendments means unravelling the agreement. In order to determine whether any trade agreement is in the national interest, it requires looking at the total package in its entirety. Without fast track, it is virtually impossible to see how any negotiation could produce a final offer from our trading partners if each provision in the package was subject to amendment.

By granting Presidents fast track, Congress has empowered American Presidents with the same bargaining power and negotiating authority possessed by our trading partners, that is, the ability to ensure that the agreement so painstakingly negotiated would be the agreement voted on. Without fast track, the President cannot make such an assurance, and without it, few would be willing to enter into a negotiation and even fewer would be willing to negotiate the tough concessions necessary. No trading nation would ever reveal its final, best offer knowing that the United States could unilaterally reopen the agreement.

The United States Trade Agenda: What Is Fast Track For

After consultations with Congress, the President will set out the nation's trade agenda for the next few years. The absence of large-scale negotiations like the Tokyo and Uruguay Rounds has mistakenly led some to conclude that not having fast track is not a problem for the United States. That is just as wrong a view as the idea that this request for fast track is only about extending NAFTA to Chile.

The President has identified three main areas in which negotiations would greatly benefit the United States. First, there is the "built-in" agenda of the WTO, which calls for negotiations on government procurement in 1997; intellectual property in 1998; agriculture in 1999; and trade in services in 2000. In each of these areas, the United States is the most competitive nation in the world and, as a result, we stand to benefit the most from actively participating in writing the rules of trade.

The second part of the President's proposed agenda involves building on the success of the Information Technology Agreement(ITA). This $5 billion tariff cut on products for which the United States is the world's leading producer was achieved by the use of residual tariff-cutting authority from a previous grant of fast track. We have identified eight additional sectors for future negotiations: ITA 2, chemicals, automotive, oilseeds, energy equipment and services, environmental technology and services, medical equipment and services, and wood and paper products. Other APEC members have submitted their "wish lists" and it appears there is sufficient overlapping support for many of the U.S. suggestions. Without fast track, it is very unlikely that this process will go forward.

The third area the President hopes to address is moving forward in both the Asia Pacific Economic Cooperation Forum(APEC) toward the goal of free trade by the year 2010 and with a Free Trade Agreement for the Americas(FTAA)by the year 2005. In both regions, economic growth rates are among the highest in the world and barriers to U.S. exports remain high. As a result, tariff reductions and greater market access will have a very positive effect on our exports. Without the active participation of the United States, both of these processes will slow considerably--and without fast track we

cannot participate actively.

The President and many Members of Congress have indicated that negotiating a trade agreement with Chile is a critical step in continuing the move to trade liberalization in the Hemisphere. The Canadians have already concluded a bilateral treaty with Chile and the result, for our exports, is that we face an across-the-board 11% tariff disadvantage.

It is important to remember that non-participation by the United States in global trade negotiations does not mean that our competitors are going to call a halt to their efforts to gain market access and preferential tariff treatment. On the contrary, they are very active in advancing their own agendas. Since 1992, in Latin America and Asia they have concluded over 20 free trade agreements--agreements that leave us at a disadvantage.

The United States is the most competitive nation in the world. That is why it is so advantageous for us to play a leading role in establishing both the focus of trade negotiations and the rules. We will not have the opportunity to do either in the absence of fast track.

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

August 30, 1997

TO: Erskine Bowles
Dan Tarullo
John Hilley
Susan Brophy
Jay Berman
Vicki Radd

FROM: USTR

As per our discussion on Thursday, enclosed please find the following:

(1) **A draft of the proposed fast track bill;**

(2) **A copy of Section 151 of the 1974 Trade Act**, which pertains to the permissible scope legislation to implement future trade agreements;

(3) **A section-by-section analysis of the proposed bill**;

(4) **Talking points to be used by the Administration's negotiating team in a pre-introduction meeting with the Republican negotiating team** (identified as "Fast Track Talking Points -- Archer, Dreier);

(5) **Talking points to be used by the Administration's negotiating team in a pre-introduction meeting with Democrats** (identified as "Fast Track Talking Points -- Matsui, Rangel, and Whip Group); and

(6) **Talking points for Cabinet Members and other Administration officials to use in Hill consultations next week.**

HIGHLY SENSITIVE DRAFT
EYES ONLY

Fast Track Talking Points

(Matsui, Rangel, Whip Group)

Stage-Setting

- o As you know, the President has made fast track among his highest immediate legislative priorities.

- o I know you share the President's view that we need fast track if we are going to keep expanding our economy and creating high-paying, high productivity jobs that trade creates.

- o The President is fully aware that fast track renewal is controversial, especially among some Democrats, partly because opponents are trying to link it to the NAFTA, which has drawn alot of unfavorable, but unfounded, bad press. But, let's face it, some in our party -- and Republicans too -- are simply anti-trade and we will not be able to accommodate them.

    - -- At the same time, the President is determined that trade policy needs to remain bipartisan.

    - -- Recognizing that the bulk of our votes in the House will probably be Republican, we think it is very important to have the largest possible number of Democrats voting "yes." That means we will need to work very closely with you and other members of the Whip Group and do our utmost to ensure that Democrats are kept very much part of the drafting process as we go forward.

- o To attract Democratic support we are going to have to make it clear to key Democratic constituencies that the Administration continues to care about the impact of trade on labor and the environment.

    - -- That is what the President did when he insisted, over Republican objections, on negotiating and enacting the NAFTA supplemental agreements.

    - -- That is why we have continued to push labor and environmental issues in the WTO and elsewhere.

- o Obviously, a good number of Republicans do not share our views on this subject. But I think even they will have to recognize that there are some genuine concerns -- justified or otherwise -- in the public and the Congress about how trade affects our well-being.

- o Still, we have to be realistic. If we want to be able to use the leverage of trade negotiations to address other issues, we need to ensure that we have fast track and that our trading partners will actually engage with us. That means we cannot overreach.

- o I believe that the key is for the President to be able to say that the fast track authority he obtains gives him the continued ability to address the issues that count -- both on trade and labor/environment.

  1) trade related

  - -- Partly this is a question of how we structure the bill. 2) appropriate 3) duration

  - -- But it also involves recognizing that the President can use mechanisms beyond fast track agreements themselves -- like we did for the NAFTA -- to address labor and environmental concerns.

  - -- We are going to have to drive that point home. The key is to use our leverage effectively, not the mechanism we use.

Our Approach

- o Our proposed bill proceeds from that perspective.

- o You may remember that we spent countless hours in 1995 negotiating with Archer, Dreier and others on a possible approach to fast track.

- o We made some progress, but our chief objection was that the Republican proposal unwisely tied the President's hands both in negotiations and securing passage of an implementing bill.

- o We are prepared to acknowledge that fast track is fundamentally meant for trade deals, not negotiating labor or environmental agreements. But ~~the President~~ also needs to retain the flexibility to address related environment, labor and other issues in an appropriate manner.

  what other issues ?

- o Our draft bill tries to mesh these two perspectives.

Negotiating Objectives

- o First, our bill states clearly in the overall negotiating objectives that labor and environment are legitimate issues to address in connection with trade agreements. But our language also recognizes that the proper scope for labor and environment questions in a trade agreement are those that are "trade-related".

- That follows the general language we were discussing with Rep. Archer in 1995. The Republican formulation of "directly" or "specifically" related to trade is also potentially acceptable.

- We have also kept the format that specifically mentions labor and environment in the "overall" objectives, but uses more general language to cover those issues in the "principal" negotiating objectives.

  -- Our view is that Republicans would not agree to such a reference in the principal objectives.

Scope of Implementing Provisions

- I am sure you recall that in 1995 we fought with the Republicans over their insistence on confining fast track implementing bill provisions.

  -- They wanted only provisions that are "necessary" to carry out the agreement.

  -- They also insisted that every implementing provision be "directly related" to the principal negotiating objectives.

- Their idea was that this language would prevent the Administration from adding provisions to the implementing bill that Republicans viewed as extraneous.

- The strict "necessary" test would preclude such add-ons as trade adjustment assistance, NADBank, and other items important to Democrats -- and Republicans -- in gaining approval for future trade agreements. That does not make sense.

- Our proposal is to return to the formulation of allowing the insertion of any provision "necessary or appropriate" to implement the trade agreement. That is how fast track has been framed since 1974.

- But I want your sense about the importance of returning to the "necessary or appropriate" language -- recognizing that it is not likely to be popular with the Republicans and we do not want to be seen as retreating to the Republican proposal later on.

- There obviously are formulations between "necessary or appropriate" and the Republican approach that might work.

P.7,

[illegible]

Other Issues

o In a nutshell, our bill would allow for broad fast track authority that would permit us to do "zero-for-zero" type sectoral tariff deals (like ITA), follow up on the WTO agenda, and conclude regional and bilateral free-trade deals, like Chile and the FTAA.

-- This approach should be fine with the Republican side. I do not see sectoral deals or the WTO agenda as controversial for Democrats.

o For now, we are including in the bill largely the notice and consultation provisions required under the 1988 fast track authority. This is one area where we can be flexible.

o Our proposal is to have the fast track authority last through the next President's term.

-- In the past, and in the 1995 Republican bill, fast track terms have been a bit shorter, with the possibility of extensions. We could consider that this time too.

-- How do you see the duration issue as playing on the Democratic side?

o Finally, we have a provision that grandfathers the Chile negotiations.

Conclusion

o I would like a sense from you of:

-- whether we are headed in the right direction with the bill I have described;

-- what other approaches we might consider that will enlarge our Democratic support while keeping the Republican numbers we need; and

-- how best we can manage the process.

Staff Draft

Alternatives

1) <u>Negotiating Objectives</u>

a) Accept proposed Ways and Means majority structure (using "Overall" and "Principal" Objectives) but broaden principal objective language on specific barriers (*e.g.*, "trade-related" instead of "directly related to trade".)

b) Accept Ways and Means structure but redraft language of principal objectives to reduce disparity between non-tariff barrier language and other objectives (*e.g.*, by adding at end (" . . . including labor and environmental policies and practices of foreign governments directly related to trade.")

c) Accept Ways and Means majority structure and language (" . . . policies and practices of foreign governments directly related to trade . . .")

d) Draft a single set of objectives.

2) <u>Duration</u>

a) Until October 1, 2005.

b) Until October 1, 2001, with four year extension.

c) Until October 1, 2001, with two year extension (W&M majority proposal).

d) Until October 1, 2001 — no

3) <u>Notification, Consultation, Withdrawal of Fast Track</u>

a) Package based on 1988 Act provisions (pre-negotiation notice and consultations with W&M and Finance and other committees the Administration thinks appropriate; pre-signing notice to Congress, Federal Register notice, and consultations with all committees of jurisdiction; advisory committee advice prior to signing; Congress may withdraw fast track if Administration fails to consult adequately prior to signing agreements).

b) Add further requirements proposed by W&M majority: 1) President must specify in advance of any negotiation aimed at "specific trade barriers" how the agreement will address those barriers; 2) pre-signing consultations must include whether the agreement will be implemented in part through non-fast-track legislation; 3) 60 days after signing the Administration must specify in writing all legislative changes anticipated.

leg history of bilaterals v multilateral v sectorals

c) All of the above, plus (for all negotiations or just FTAs): 1) Pre-negotiation consultations must include all Congressional committees expressing an interest in the agreement; 2) greater specificity in subject matter of consultations; 3) additional consultations required during negotiations.

d) For FTAs only: 1) Congress may disapprove fast-track for specific negotiations; 2) Congress may withdraw fast-track if Administration departs from its specified objectives; or 3) Congress must approve use of fast-track prior to negotiations. No

4) Scope of Implementing Bills

a) Each provision of an implementing bill must be "necessary or appropriate" to implement the trade agreement (language from 1974 and 1988 authority).

b) Implementing provisions must be "necessary" to implement the agreement or "[directly] related to the agreement's operation or effect", plus PAYGO.

c) Same as a) or b) above but in addition limit those agreements qualifying for fast track to only those addressing the subject matters encompassed by the principal negotiating objectives.

and Not inconsistent w/ objectives

d) Use W&M majority language from 1995: implementing provisions must 1) be "necessary" to implement trade agreement and "directly related" to principal negotiating objectives; or 2) "define and clarify, or [be] integral to the operation and effect of the agreement under U.S. law". <u>But</u> include list of permissible "add-ons" such as PAYGO, TAA, modification of trade laws, *etc*.

e) Use W&M majority language, but with modification proposed by Administration in 1995: implementing provisions must 1) be "necessary" to implement trade agreement and "directly related" to principal negot~~iating objec~~tives; or 2) "define and clarify, or [be] <u>congruent with</u>, the operation and effect of the agreem~~ent under~~ U.S. law".

f) Same as a) or b) above but add requirement that each provision of the implementing bill must also be related to the subject matter addressed by the principal negotiating objectives. (Query whether this proposal captures TAA, etc.)

* require a listing of those that are necessary and those that are appropriate

~~CONFIDENTIAL:~~
NOT FOR RELEASE

TRADE NEGOTIATING AUTHORITY ("FAST TRACK")
CONCEPTUAL DRAFT
(Not legislative language)
May 8, 1997

DETERMINED TO BE AN ADMINISTRATIVE MARKING Per E.O. 13526
Sec. 3.2(C) Initials: DB Date: 3/8/19

SECTION 1: Trade Negotiating Objectives

Overall trade negotiating objectives: to obtain market access; to reduce barriers and trade-distorting policies and practices; to strengthen international trading system; to foster economic growth and full employment; to develop and strengthen rules on restrictive or trade-distorting import and export practices; and and to address those aspects of foreign government policies and practices regarding labor, the environment, and other matters which are specifically related to trade and reduce market opportunities for U.S. exports or distort or impede U.S. exports or imports

Principal trade negotiating objectives: to eliminate specific trade barriers directly related to trade that distort or impede U.S. imports or exports (note special consultation requirement below); to reduce barriers to trade in services; to reduce barriers to foreign direct investment; promote protection and enforcement of intellectual property rights; and to obtain broader transparency.

SECTION 2: Elements

Proclamation authority: Gives authority to President to proclaim modifications in duties without the need for Congressional approval, subject to certain limitations but similar to expired provisions. Gives unlimited authority to negotiate reciprocal duty elimination on a sectoral basis

Agreements on tariff and non-tariff barriers:

- Streamline expired law by removing distinction between procedures to be used for bilateral and multilateral agreements;

- Covers agreements entered into by President between January 1, 1998 and ~~March~~ 1, 2001, with a two-year extension available

Leo
Short
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at
Leo at to Dec 15, 2001
2
March 1, 2002

Leo
disapproved

- **Conditions: To be implemented under fast track, agreement must make progress in meeting negotiating objectives set forth above and President satisfies consultation conditions**

- Implementing bill must consist *only* of:

  -- Provision approving trade agreement, statement of administrative action;

  -- Provisions directly related to principal negotiating objectives, if the provisions are necessary for the operation or implementation of U.S. rights or obligations under the trade agreement;

  -- Provisions necessary for operation or implementation of the trade agreement

necessary but not appropriate

However, fast track would apply to implementing bills that *also* contain:

  -- Provisions that define and clarify the operation and effect of the applicable trade agreement under U.S. law (intended to permit implementation of all U.S. rights and obligations under the agreement, but not to make changes to trade or other statutes unrelated to trade agreement);

  -- Revenue provisions

- Consultations:

  -- 90 days before initiating negotiations, President to provide notice of intent and objectives and to consult (similar to bilateral pre-negotiation consultation provision of expired law);

  -- Prior to entering into negotiations concerning "specific trade barrier" negotiating objective, President to consult as to how the negotiation meets the objective;

  -- Before entering into agreement, President to consult concerning the nature of the agreement, how it will achieve the purposes of this bill, and all matters relating to implementation

SECTION 4: Implementation

- An agreement covering tariff and nontariff barriers will enter into force *only* if:

  -- The President, at least 90 days before entering into the agreement, notifies Congress and publishes intent;

  -- Within 60 days after entering into the agreement, the President submits to Congress a description of required changes to U.S. law;

  -- The president submits a copy of the text, implementing bill, statement of administrative action, and supporting information describing how the agreement serves the negotiating objectives;

  any time limitation

  -- The implementing bill is enacted into law

- Lack of consultations: If Congress passes a disapproval resolution based on lack of consultations, fast track will not apply to an implementing bill submitted with respect to a particular trade agreement

SECTION 6: Treatment of Trade Agreements with Chile

Fast track authority may be extended to ongoing negotiations with Chile although there was no preconsultation because the negotiations began before preconsultation requirement was established

Similar 2 HST to House Committee draft?

SEC. TRADE NEGOTIATING OBJECTIVES.

(a) OVERALL TRADE NEGOTIATING OBJECTIVES.—The overall trade negotiating objectives of the United States for agreements subject to the provisions of section 203 are—

(1) to obtain more open, equitable, and reciprocal market access;

(2) to obtain the reduction or elimination of barriers and other trade distorting policies and practices which are specifically related to trade and decrease market opportunities for United States exports or distort or impede United States exports or imports;

(3) to further strengthen the system of international trading disciplines and procedures;

(4) to foster economic growth and full employment in the United States and the global economy;

(5) to develop, strengthen, and clarify rules and disciplines on restrictive or trade-distorting import and export practices which are specifically related to trade and decrease market opportunities for United States exports or distort or impede United States imports or exports; and

(6) to address those aspects of foreign government policies and practices regarding labor, the environment, and other matters which are specifically related to trade and decrease market opportunities for United States exports or distort or impede United States imports or exports.

(b) PRINCIPAL TRADE NEGOTIATING OBJECTIVES.—

(1) SPECIFIC BARRIERS.—The principal negotiating objectives of the United States regarding specific trade barriers and other trade distortions are to expand competitive market opportunities for United States exports and to obtain more open and fair conditions of trade by reducing or eliminating specific tariff and nontariff trade barriers and policies and practices of foreign governments directly related to trade that distort or impede United States imports or exports.

(2) TRADE IN SERVICES.—The principal negotiating objectives of the United States regarding trade in services are—

(A) to reduce or eliminate barriers to international trade in services, including regulatory and other barriers that deny national treatment and restrict the establishment and operations of service suppliers; and

(B) in the negotiations on financial services conducted under the auspices of the World Trade Organization, to secure commitments, in a wide range of commercially important industrial and developing countries, to reduce or eliminate barriers to the supply of financial services, including barriers that deny national treatment and restrictions on the establishment and operation of financial services providers, as the condition for the United States—

(i) offering commitments to provide national treatment and market access in each of the financial services subsectors; and

(ii) making such commitments on a most-favored-nation basis.

(3) FOREIGN DIRECT INVESTMENT.—The principal negotiating objective of the United States regarding foreign direct investment is to reduce or eliminate artificial or trade-distorting barriers to foreign direct investment by—

(A) reducing or eliminating exceptions to the principle of national treatment;

(B) freeing the transfer of funds relating to investments;

(C) reducing or eliminating performance requirements;

(D) affirming international legal standards for expropriation and compensation for expropriation; and

(E) providing meaningful procedures for resolving investment disputes.

(4) INTELLECTUAL PROPERTY.—The principal negotiating objectives of the United States regarding intellectual property are—

(A) to further promote adequate and effective protection of intellectual property rights, including through—

(i) accelerating the implementation globally of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15)), and achieving improvements in the standards of that Agreement;

(ii) providing strong protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property;

(iii) preventing or eliminating discrimination with respect to matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights; and

(iv) providing strong enforcement of intellectual property rights, including through accessible, expeditious, and effective civil and criminal enforcement mechanisms; and

(B) to secure fair, equitable, and nondiscriminatory market access opportunities for United States persons that rely upon intellectual property protection.

(5) TRANSPARENCY.—The principal negotiating objective of the United States with respect to trans-

parency is to obtain broader application of the principle of transparency through—

(A) increased public access to information regarding trade issues;

(B) clarity in the costs and benefits of trade policy actions; and

(C) the observance of open and equitable procedures in trade policy matters by parties to international trade agreements.

CONDITIONS.—A trade agreement may be entered into under this subsection only if such agreement makes progress in meeting the applicable objectives described in section _ (b) and the President satisfies the conditions set forth in section .

Staff Notional Draft 2/18

SEC. 1. SHORT TITLE.

This act may be cited as the "Trade Agreements Authority Act of 1997".

SEC. 2. FINDINGS AND RECOMMENDATIONS.

The Congress finds that barriers to, and other distortions of, U.S. trade and foreign direct investment are reducing the growth of foreign markets for the goods and services of the United States, diminishing the intended mutual benefits of reciprocal trade concessions, adversely affecting the United States economy, preventing fair and equitable access to markets, and preventing the development of open and nondiscriminatory trade and investment among nations. The President is urged to take all appropriate and feasible steps within his power (including the full exercise of the rights of the United States under international agreements) to harmonize, reduce, or eliminate such barriers to, and other distortions of, international trade and investment. The President is further urged to utilize the authority granted by section 3 of this act to negotiate trade agreements with other countries and instrumentalities providing on a basis of mutuality for the harmonization, reduction, or elimination of such barriers to, and other distortions of, international trade and investment. Nothing in this section shall be construed as prior approval of any legislation which may be necessary to implement an agreement concerning barriers to, or other distortions of, international trade and investment.

(b) ADHERENCE TO OBLIGATIONS UNDER URUGUAY ROUND AGREEMENTS. - In determining whether to enter into negotiations with a particular country, the President shall take into account whether that country has implemented its obligations under the Uruguay Round Agreements (as defined in section 2 of the Uruguay Round Agreements Act).

threshold? negotiations con le Spain implementation

SEC. 3. TRADE AGREEMENTS AUTHORITY.

(a) AGREEMENTS REGARDING TARIFF BARRIERS.-

(1) IN GENERAL. - Whenever the President determines that one or more existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes and policies of this act will be promoted thereby, the President -

(A) on or before December 15, 2001 (or December 15, 2005, if trade authorities procedures are extended under subsection (c)), may enter into trade agreements with foreign countries; and

(B) may, subject to paragraphs (2) and (3), proclaim -

(i) such modification or continuance of any existing duty,

(ii) such continuance of existing duty-free or excise treatment, or

(iii) such additional duties, as the President determines to be required or appropriate to carry out any such trade agreement.

(2) LIMITATIONS. - No proclamation may be made under paragraph (1) that -

(A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on the date of the enactment of this Act) to a rate of duty which is less than 50 percent of the rate of such duty that applies on such date of enactment;

(B) reduces the rate of duty on an article over a period greater than 10 years after the first reduction that is proclaimed to carry out a trade agreement with respect to such article; or

(C) increases any rate of duty above the rate that applied on the date of the enactment of the Uruguay Round Agreements Act.

(3) AGGREGATE REDUCTION; EXEMPTION FROM STAGING.-

(A) AGGREGATE REDUCTION.- Except as provided in subparagraph (B), the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a trade agreement entered into under paragraph (1) shall not exceed the aggregate reduction which would have been in effect on such day if a reduction of 3 percent ad valorem or a reduction of one-tenth of the total reduction, whichever is greater, had taken effect on the effective date of the first reduction proclaimed under paragraph (1) to carry out such agreement with respect to such article.

(B) EXEMPTION FROM STAGING. - No staging is required under subparagraph (A) with respect to a duty reduction that is proclaimed under paragraph (1) for an article of a kind that is not produced in the United States. The United States International Trade Commission shall advise the President of the identity of articles that may be exempted from staging under this paragraph.

(4) ROUNDING. - If the President determines that such action will simplify the computation of reductions under paragraph (3), the President may round an annual reduction by an amount equal to the lesser of-

(A) the difference between the reduction without regard to this paragraph and the next lower whole number; or

(B) one-half of 1 percent ad valorem.

(5) OTHER LIMITATIONS. - A rate of duty reduction or increase that may not be proclaimed by reason of paragraph (2) may take effect only if a provision authorizing such reduction or increase is included within an implementing bill provided for under section 5 and that bill is enacted into law.

(6) OTHER TARIFF MODIFICATIONS. - Subject to the consultation and layover requirements of section 115 of the Uruguay Round Agreements Act, the President may proclaim the modification of any duty or staged rate

reduction of any duty set forth in Schedule XX, as defined in section 2(5) of that Act, if -

(A) the United States agrees to such modification or staged rate reduction in a negotiation for the reciprocal elimination or harmonization of duties under the auspices of the World Trade Organization; and

(B) such modification or staged reduction applies to the rate of duty on an article proposed for such modification or staged reduction by the appropriate advisory committees established under section 135 of the Trade Act of 1974.

(b) AGREEMENTS REGARDING TARIFF AND NON-TARIFF BARRIERS.-

(1) IN GENERAL.-Whenever the President determines that any duty or other import restriction imposed by any foreign country or the United States or any other barrier to, or other distortion of, international trade-

(A) unduly burdens or restricts the foreign trade of the United States or adversely affects the United States economy, or

(B) the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect, and that the purposes and policies of this act will be promoted thereby, the President may, during the period beginning on January 1, 1998, and ending on December 15, 2001 (or December 15, 2005, if trade authorities procedures are extended under 4+4 subsection (c)), enter into a trade agreement with foreign countries providing for-

(i) the reduction or elimination of such duty, restriction, barrier, or other distortion, or

(ii) the prohibition of, or limitation on the imposition of, such barrier or other distortion.

(2) CONDITIONS.-A trade agreement may be entered into under this subsection only if [such agreement makes progress in meeting (added) the specific objectives for the negotiations set forth in the written notice provided by the President under section 4(a)(1) and] the President satisfies the conditions set forth in section 5. new language?

(3) BILLS QUALIFYING FOR TRADE AUTHORITIES PROCEDURES.-

(A) The provisions of section 151 of the Trade Act of 1974 (in this act referred to as "trade authorities procedures") apply to implementing bills submitted with respect to trade agreements entered (into under) subsection (b)(1). necessary or appropriate?

(c) EXTENSION DISAPPROVAL PROCESS FOR CONGRESSIONAL TRADE AUTHORITIES PROCEDURES.-

(1) IN GENERAL.-Except as provided in section 5(b)-

(A) the trade authorities procedures apply to implementing bills submitted with respect to trade agreements entered into under subsection (b) on or before December 15, 2001; and

(B) the trade authorities procedures shall be extended to implementing bills submitted with respect to trade agreements entered into under subsection (b) after December 15, 2001, and before December 15, 2005, if (and only if)-

(i) the President requests such extension under paragraph (2); and

(ii) neither House of the Congress adopts an extension disapproval resolution under paragraph (5) before December 15, 2001.

(2) REPORT TO CONGRESS BY THE PRESIDENT.-If the President is of the opinion that the trade authorities procedures should be extended to implementing bills described in paragraph (1)(B), the President shall submit to the Congress, not later than July 1, 2001, a written report that contains a request for such extension, together with-

(A) a description of all trade agreements that have been negotiated under subsection (b) and the anticipated schedule for submitting such agreements to the Congress for approval;

(B) a description of the progress that has been made in negotiations to achieve the purposes and policies of this act, and a statement that such progress justifies the continuation of negotiations; and

(C) a statement of the reasons why the extension is needed to complete the negotiations.

(3) REPORT TO CONGRESS BY THE ADVISORY COMMITTEE.-The President shall promptly inform the Advisory Committee for Trade Policy and Negotiations established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) of the President's decision to submit a report to the Congress under paragraph (2). The Advisory Committee shall submit to the Congress as soon as practicable, but not later than August 1, 2001, a written report that contains-

(A) its views regarding the progress that has been made in negotiations to achieve the purposes and policies of this act; and

(B) a statement of its views, and the reasons therefor, regarding whether the extension requested under paragraph (2) should be approved or disapproved.

(4) REPORTS MAY BE CLASSIFIED.-The reports submitted to the Congress under paragraphs (2) and (3), or any portion of the reports, may be classified to the extent the President determines appropriate.

(5) EXTENSION DISAPPROVAL RESOLUTIONS.-

(A) For purposes of this subsection, the term "extension disapproval resolution" means a resolution of either House of the Congress, the sole matter after the resolving clause of which is as follows: "That the ____ disapproves the request of the President for the extension, under section 2(c)(1)(B)(i) of the Trade Agreements Authority Act of 1997, of the provisions of section 151 of the Trade Act of 1974 to any implementing bill submitted with respect to any trade agreement entered into under section 2(b) of the Trade Agreements Authority Act of 1997 after December 15, 2001.", with the blank space being filled with the name of the resolving House of the Congress.

(B) Extension disapproval resolutions-

(i) may be introduced in either House of the Congress by any member of such House; and

(ii) shall be jointly referred, in the House of Representatives, to the Committee on Ways and Means and the Committee on Rules.

(C) The provisions of sections 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to extension disapproval resolutions.

(D) It is not in order for-

(i) the Senate to consider any extension disapproval resolution not reported by the Committee on Finance;

(ii) the House of Representatives to consider any extension disapproval resolution not reported by the Committee on Ways and Means and the Committee on Rules; or

(iii) either House of the Congress to consider an extension disapproval resolution after December 14, 2001.

SEC. 4. CONSULTATIONS.

60 to 90

(a) NOTICE AND CONSULTATION BEFORE NEGOTIATION.-The President, at least 90 calendar days before initiating negotiations on any agreement that is subject to the provisions of section 3(b), shall-

this could be notification and disapproval

not? Chile

(1) provide written notice to the Congress of the President's intent to enter into the negotiations and set forth therein the date the President intends to initiate such negotiations [, the principal United States objectives for the negotiations,] and whether the President intends to seek an agreement, or changes to an existing agreement; and

tariff + non tariff barriers

(2) before and after submission of the notice, consult regarding the negotiations with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives and such other committees of the House and Senate as the President deems appropriate.

(b) CONSULTATION WITH CONGRESS BEFORE AGREEMENTS ENTERED INTO.-

(1) CONSULTATION.-Before entering into any trade agreement under section 2(b), the President shall consult with-

Unique?

(A) the Committee on Ways and Means of the House of Representatives and the Committee on

Finance of the Senate; and

(B) each other committee of the House and the Senate, and each joint committee of the Congress, which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement.

(2) SCOPE.-The consultation described in paragraph (1) shall include consultation with respect to-

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes and policies of this act; and

(C) all matters relating to the implementation of the agreement under section 5, including whether the agreement includes subject matter for which supplemental implementing legislation may be required which is not subject to trade authorities procedures.

(c) ADVISORY COMMITTEE REPORTS.-The report required under section 135(e)(1) of the Trade Act of 1974 regarding any trade agreement entered into under section 3 (a) or (b) of this act shall be provided to the President, the Congress, and the United States Trade Representative not later than 30 days after the date on which the President notifies the Congress under section 5(a)(1)(A) of the President's intention to enter into the agreement.

SEC.5. IMPLEMENTATION OF TRADE AGREEMENTS.

(a) IN GENERAL.-

(1) NOTIFICATION AND SUBMISSION.-Any agreement entered into under section 3(b) shall enter into force with respect to the United States if (and only if)- Bilateral?

(A) the President, at least 90 calendar days before the day on which the President enters into the trade agreement, notifies the House of Representatives and the Senate of the President's intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(B) within 60 days after entering into the agreement, the President submits to the Congress a description of those changes to existing laws that the President considers would be required in order to bring the United States into compliance with the agreement;

(C) after entering into the agreement, the President submits a copy of the final legal text of the agreement, together with-

(i) a draft of an implementing bill;

(ii) a statement of any administrative action proposed to implement the trade agreement; and

(iii) the supporting information described in paragraph (2); and

(D) the implementing bill is enacted into law.

(2) SUPPORTING INFORMATION.-The supporting information required under paragraph (1)(C)(iii) consists of--

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement--

(i) asserting that the agreement makes progress in achieving the applicable purposes and policies of this act; and

(ii) setting forth the reasons of the President regarding--

(I) how and to what extent the agreement makes progress in achieving the applicable purposes and policies referred to in clause (i), and why and to what extent the agreement does not achieve other applicable purposes and policies;

(II) whether and how the agreement changes provisions of an agreement previously negotiated;

(III) how the agreement serves the interests of United States commerce; and

(IV) why the implementing bill and proposed administrative action is required or appropriate to carry out the agreement.

(b) LIMITATIONS ON TRADE AUTHORITIES PROCEDURES.-

(1) FOR LACK OF CONSULTATIONS.--

(A) The trade authorities procedures shall not apply to any implementing bill submitted with respect to a trade agreement entered into under section 3(b) if both Houses of Congress separately agree to a procedural disapproval resolution within any 60-day period.

(B) for purposes of this paragraph, the term "procedural disapproval resolution" means a resolution of either House of the Congress, the sole matter after the resolving clause of which is as follows: "That the President has failed or refused to consult with the Congress on trade negotiations and trade agreements in accordance with section 4(b) of the Trade Agreements Authority Act of 1997 and, therefore, the provisions of section 151 of the Trade Act of 1974 shall not apply to any implementing bill submitted with respect to any trade agreement entered into under section 3(b) of the Trade Agreements Authority Act 1997.".

(2) PROCEDURES FOR CONSIDERING RESOLUTIONS.-

(A) Procedural disapproval resolutions-

(i) in the House of Representatives--

(I) shall be introduced by the chairman or ranking minority member of the Committee on Ways and Means or the chairman or ranking minority member of the Committee on Rules;

(II) shall be jointly referred to the Committee on Ways and Means and the Committee on Rules; and

(III) may not be amended by either Committee; and

(ii) in the Senate shall be original resolutions of the Committee on Finance.

(B) The provisions of section 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to procedural disapproval resolutions.

(C) It is not in order for the House of Representatives to consider any procedural disapproval resolution not reported by the Committee on Ways and Means and the Committee on Rules.

(c) RULES OF HOUSE REPRESENTATIVES AND SENATE.-Subsection (b) of this section and section 3(c) are enacted by the Congress--

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and such are deemed a part of the rules of each House, respectively, and

such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

SEC. 6. TREATMENT OF CERTAIN TRADE AGREEMENTS.

(a) EXTENDED NEGOTIATIONS IN THE URUGUAY ROUND.-Notwithstanding section 3(b)(3) and section 5(b), the provisions of section 4(a) shall not apply to an agreement that results from negotiations identified in section 135 of the Uruguay Round Implementation Act (19 U.S.C. 3555) that were commenced before the date of the enactment of this Act.

(b) AGREEMENT WITH CHILE.--If an agreement to which section 3(b) applies which provides for the accession of Chile to the North American Free Trade Agreement is entered into with Chile after the date of the enactment of this Act and results from negotiations that were commenced before such date of enactment--

(1) the applicability of the trade authorities procedures to such agreement shall be determined without regard to the requirements of section 4(a); and

(2) if such agreement is entered into before March 15, 1998, section 5(a)(1)(A) shall be applied by substituting "30" for "90".

SEC. 7. CONFORMING AMENDMENTS.

(a) IN GENERAL.--Title I of the Trade Act of 1974 19 U.S.C. 211 and following) is amended as follows:

(1) Section 151(b)(1) (19 U.S.C. 2191(b)(1) is amended by striking "or section 282 of the Uruguay Round Agreements Act" and inserting "section 282 of the Uruguay Round Agreements Act, or section 5 of the Trade Agreements Authority Act of 1997".

(2) Section 131 (19 U.S.C. 2151) is amended-

(A) in subsection (a)-

(i) in paragraph (1), by striking "section 123 of this Act or section 1102 (a) or (c) of the Omnibus Trade and Competitiveness Act of 1988," and inserting "section 123 of this Act, section 1102 (a) or (c) of the Omnibus Trade and Competitiveness Act of 1988, or section 3 (a) or (b) of the Trade Agreements Authority Act of 1997,"

(ii) in paragraph (2), by inserting "or section 3 (a) or (b) of the Trade Agreements Authority Act of 1997" after "1988";

(B) in subsection (B), by inserting "of the Omnibus Trade and Competitiveness Act of 1988 or section 3(a)(3)(A) of the Trade Agreements Authority Act of 1997" before the end period; and

(C) in subsection (c), by striking "of this Act of section 1102 of the Omnibus Trade and Competitiveness Act of 1988," and inserting "of this Act, section 1102 of the Omnibus Trade and Competitiveness Act of 1988, or section 3 of the Trade

Agreements Authority Act of 1997."

(3) Sections 132, 133(a), and 134(a) (19 U.S.C. 2152, 2153(a), and 2154(a)) are each amended by striking "or section 1102 of the Omnibus Trade and Competitiveness Act of 1988," each place it appears and inserting ", section 1102 of the Omnibus Trade and Competitiveness Act of 1988, or section 3 of the Trade Agreements Authority Act of 1997,".

(4) Section 134(b) (19 U.S.C. 2154(b) is amended by inserting "or section 3 of the Trade Agreements Authority Act of 1997" after "1998".

(5) Section 135(a)(1)(A) (19 U.S.C. 2155(a)(1)(A)) is amended by inserting "or section 3 of the Trade Agreements Authority Act of 1997" after "1998".

(6) Section 135(e) (19 U.S.C. 2155(e)) is amended-

(A) in paragraph (1), by inserting "or section 3 of the Trade Agreements Authority Act of 1997" after "1988" the first two places it appears, and by inserting "or section 5(a)(1)(A) of the Trade Agreements Authority Act of 1997" after "1988" the third place it appears; and

(B) in paragraph (2), by inserting "or section 3 of the Trade Agreements Authority Act of 1997" after "1988".

(b) APPLICATION OF SECTIONS 125, 126, AND 127 OF THE TRADE ACT OF 1974.-For purposes of applying sections 125, 126, and 127 of the Trade Act of 1974 (19 U.S.C. 2135, 2136(a), and 2137)-

(1) any trade agreement entered into under section 3 shall be treated as an agreement entered into under section 101 or 102, as appropriate, of the Trade Act of 1974 (19 U.S.C. 2111 or 2112); and

(2) any proclamation or Executive order issued pursuant to a trade agreement entered into under section 3 shall be treated as a proclamation or Executive order issued pursuant to a trade agreement entered into under section 102 of the Trade Act of 1974.

Duration - Extension
n 2005
y 2001 → negative option

Key Components

In 2/18 Staff Draft

Proclamation authority:	President may proclaim up to 50% reduction in tariffs over 5% *ad val.*, and elimination of tariffs below 5% (1988 act), without seeking further Congressional authority; President may proclaim reciprocal sectoral ("zero-for-zero") tariff elimination.
Negotiating objectives:	None. Bill contains very general Congressional "findings and recommendations" along lines of 1974 Trade Act.
Scope of implementing bills:	Implementing bills may contain provisions that are "necessary or appropriate" to implement the trade agreement. [Note: draft bill invokes existing section 151 of the 1974 Act to accomplish this purpose.]
Amendments:	Once an implementing bill is submitted to the Congress, no amendments are permitted and Congress must vote "yes" or "no" within a specified period.
Notification and consultations: 90/90 before initiating signing 60 after	President must provide 90-day advance notice of negotiations to Congress (Chile excepted), [with written statement of principal negotiating objectives]; consultation with key committees before and during negotiations; President must notify Congress ~~and~~

	consult with committees of jurisdiction at least 90 days before signing.
Duration, extension:	Fast track procedures apply to agreements concluded over the next four years, with opportunity for four-year extension unless disapproved by either House.
Congressional disapproval:	Fast track procedures do not apply if both Houses adopt disapproval resolutions stating that the President has failed to consult adequately.