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[Fast Track Negotiating Authority]

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HIGHLY SENSITIVE DRAFT 8/30
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1 **SEC. 1. SHORT TITLE.**

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

4 **SEC. 2. TRADE NEGOTIATING OBJECTIVES.**

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

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

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

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

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

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

19 ✱ (6) to address trade-related foreign government

1 policies and practices regarding labor, the environment,
2 and other matters which decrease market opportunities for *not to*
3 United States exports or distort or impede United States
4 trade.

5 (b) PRINCIPAL TRADE NEGOTIATING OBJECTIVES.-

6 (1) SPECIFIC BARRIERS. - The principal negotiating
7 objectives of the United States regarding specific trade
8 barriers and other trade distortions are to expand
9 competitive market opportunities for United States
10 exports and to obtain more open and fair conditions of *look to*
11 trade by reducing or eliminating specific tariff and *legislation*
12 nontariff trade barriers and trade-related policies and *to start*
13 practices of foreign governments directly related to trade
14 that which distort or impede United States trade.

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

1 (3) FOREIGN DIRECT INVESTMENT. -

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

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

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

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

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

16 (v) providing meaningful procedures for
17 resolving investment disputes.

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

21 (A) to further promote adequate and effective

1 protection of intellectual property rights, including
2 through -

3 (i) ensuring full and complete
4 implementation globally of the Agreement on
5 Trade-Related Aspects of Intellectual
6 Property Rights referred to in section
7 101(d)(15) of the Uruguay Round Agreements
8 Act (19 U.S.C. 3511(d)(15)), and achieving
9 improvements in the standards of that
10 Agreement;

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

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

20 (iv) providing strong enforcement of
21 intellectual property rights, including through

1 accessible, expeditious, and effective civil and
2 criminal enforcement mechanisms; and

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

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

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

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

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

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

1 *not free* (A) reducing or eliminating tariffs which
2 decrease market opportunities for United States
3 exports;

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

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

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

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

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

19 **SEC. 3. TRADE AGREEMENTS AUTHORITY.**

20 (a) AGREEMENTS REGARDING TARIFF BARRIERS.

21 - (1) IN GENERAL. - Whenever the President

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

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

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

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

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

14 (iii) such additional duties;

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

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

19 (A) reduces any rate of duty (other than a rate
20 of duty that does not exceed 5 percent ad valorem
21 on the date of the enactment of this Act) to a rate of

1 duty which is less than 50 percent of the rate of such
2 duty that applies on such date of enactment;

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

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

11 (3) AGGREGATE REDUCTION; EXEMPTION
12 FROM STAGING. -

13 (A) AGGREGATE REDUCTION. - Except as
14 provided in subparagraph (B), the aggregate
15 reduction in the rate of duty on any article which is
16 in effect on any day pursuant to a trade agreement
17 entered into under paragraph (1) shall not exceed
18 the aggregate reduction which would have been in
19 effect on such day if a reduction of 3 percent ad
20 valorem or a reduction of one-tenth of the total
21 reduction, whichever is greater, had taken effect on

1 the effective date of the first reduction proclaimed
2 under paragraph (1) to carry out such agreement
3 with respect to such article.

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

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

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

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

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

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

5 (6) OTHER TARIFF MODIFICATIONS. -

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

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

21 (b) AGREEMENTS REGARDING TARIFF AND NON-

1 TARIFF BARRIERS. -

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

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

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

13 and that the purposes and policies of this act will be promoted >

14 thereby, the President may, during the period beginning on
15 January 1, 1998, and ending on October 1, 2005, enter into a
16 trade agreement with foreign countries providing for -

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

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

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

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

11 **SEC. 4. NOTICE AND CONSULTATIONS.**

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

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

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

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

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

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

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

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

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

20 (A) the nature of the agreement;

21 (B) how and to what extent the agreement will

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1 achieve the applicable purposes and policies of this
2 act; and

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

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

13 **SEC. 5. IMPLEMENTATION OF TRADE**
14 **AGREEMENTS.**

15 (a) IN GENERAL. -

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

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

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

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

8 (i) a draft of an implementing bill;

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

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

14 (C) the implementing bill is enacted into law.

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

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

21 (B) a statement -

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

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

6 (I) how and to what extent the
7 agreement makes progress in achieving
8 the applicable purposes and policies
9 { referred to in clause (i), and why and to
10 what extent the agreement does not
11 achieve other applicable purposes and
12 policies;

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

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

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

22 (3) RECIPROCAL BENEFITS. - To ensure that a

could list those required and those appropriate if necessary

1 foreign country which receives benefits under a trade
2 agreement entered into under section 3(b) is subject to the
3 obligations imposed by such agreement, the President
4 shall recommend to Congress in the implementing bill
5 and statement of administrative action submitted with
6 respect to such agreement that the benefits and obligations
7 of such agreement apply solely to the parties to such
8 agreement, if such application is consistent with the terms
9 of such agreement. The President may also recommend
10 with respect to any such agreement that the benefits and
11 obligations of such agreement not apply uniformly to all
12 parties to such agreement, if such application is consistent
13 with the terms of such agreement.

14 (b) LIMITATIONS ON TRADE AUTHORITIES
15 PROCEDURES. -

16 (1) FOR LACK OF CONSULTATIONS. -

17 (A) The trade authorities procedures shall not
18 apply to any implementing bill submitted with
19 respect to a trade agreement entered into under
20 section 3(b) if both Houses of Congress separately
21 agree to a procedural disapproval resolution within

1 any 60-day period.

2 (B) For purposes of this paragraph, the term
3 “procedural disapproval resolution” means a
4 resolution of either House of the Congress, the sole
5 matter after the resolving clause of which is as
6 follows: “That the President has failed or refused to
7 consult with the Congress on trade negotiations and
8 trade agreements in accordance with section 4(b) of
9 the Reciprocal Trade Agreements Authority Act of
10 1997 and, therefore, the provisions of section 151 of
11 the Trade Act of 1974 shall not apply to any
12 implementing bill submitted with respect to any
13 trade agreement entered into under section 3(b) of
14 the Trade Agreements Authority Act 1997.”.

15 (2) PROCEDURES FOR CONSIDERING
16 RESOLUTIONS. -

17 (A) PROCEDURAL DISAPPROVAL
18 RESOLUTIONS -

19 (i) in the House of Representatives -

20 (I) shall be introduced by the
21 chairman or ranking minority member

1 of the Committee on Ways and Means
2 or the chairman or ranking minority
3 member of the Committee on Rules;

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

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

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

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

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

21 (c) RULES OF HOUSE REPRESENTATIVES AND

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

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

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

14 **SEC. 6. TREATMENT OF CERTAIN TRADE**
15 **AGREEMENTS.**

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

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

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

8 (2) if such agreement is entered into before June 15,
9 1998, section 5(a)(1)(A) shall be applied by substituting
10 "30" for "90".

11 **SEC. 7. CONFORMING AMENDMENTS.**

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

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

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

20 (A) in subsection (a) -

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

1 123 of this Act or section 1102 (a) or (c) of
2 the Omnibus Trade and Competitiveness Act
3 of 1988,” and inserting “section 123 of this
4 Act, section 1102 (a) or (c) of the Omnibus
5 Trade and Competitiveness Act of 1988, or
6 section 3 (a) or (b) of the Reciprocal Trade
7 Agreements Authority Act of 1997,”

8 (ii) in paragraph (2), by inserting “or
9 section 3 (a) or (b) of the Reciprocal Trade
10 Agreements Authority Act of 1997” after
11 “1988”;

12 (B) in subsection (b), by inserting “of the
13 Omnibus Trade and Competitiveness Act of 1988 or
14 section 3(a)(3)(A) of the Reciprocal Trade
15 Agreements Authority Act of 1997” before the end
16 period; and

17 (C) in subsection (c), by striking “of this Act
18 or section 1102 of the Omnibus Trade and
19 Competitiveness Act of 1988,” and inserting “of this
20 Act, section 1102 of the Omnibus Trade and
21 Competitiveness Act of 1988, or section 3 of the

1 Reciprocal Trade Agreements Authority Act of
2 1997.”

3 (3) Sections 132, 133(a), and 134(a) (19 U.S.C.
4 2152, 2153(a), and 2154(a)) are each amended by striking
5 “or section 1102 of the Omnibus Trade and
6 Competitiveness Act of 1988,” each place it appears and
7 inserting “, section 1102 of the Omnibus Trade and
8 Competitiveness Act of 1988, or section 3 of the
9 Reciprocal Trade Agreements Authority Act of 1997,”.

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

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

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

18 (A) in paragraph (1), by inserting “or section
19 3 of the Reciprocal Trade Agreements Authority
20 Act of 1997" after “1988" the first two places it
21 appears, and by inserting “or section 5(a)(1)(A) of

1 the Reciprocal Trade Agreements Authority Act of
2 1997" after "1988" the third place it appears; and

3 (B) in paragraph (2), by inserting "or section
4 3 of the Reciprocal Trade Agreements Authority
5 Act of 1997" after "1988".

6 (b) APPLICATION OF SECTIONS 125, 126, AND 127
7 OF THE TRADE ACT OF 1974. - For purposes of applying
8 sections 125, 126, and 127 of the Trade Act of 1974 (19 U.S.C.
9 2135, 2136(a), and 2137) -

10 (1) any trade agreement entered into under section
11 3 shall be treated as an agreement entered into under
12 section 101 or 102, as appropriate, of the Trade Act of
13 1974 (19 U.S.C. 2111 or 2112); and

14 (2) any proclamation or Executive order issued
15 pursuant to a trade agreement entered into under section
16 3 shall be treated as a proclamation or Executive order
17 issued pursuant to a trade agreement entered into under
18 section 102 of the Trade Act of 1974.

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.

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.

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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.

1 **SEC. 1. SHORT TITLE.**

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

4 **SEC. 2. TRADE NEGOTIATING OBJECTIVES.**

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

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

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

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

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

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

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

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

11 (b) PRINCIPAL TRADE NEGOTIATING
12 OBJECTIVES.-

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

1 exports.

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

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

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

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

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

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

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

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

12 (C) reducing or eliminating performance
13 requirements;

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

17 (E) providing meaningful procedures for
18 resolving investment disputes.

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

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

4 (i) accelerating the implementation
5 globally of the Agreement on Trade-Related
6 Aspects of Intellectual Property Rights
7 referred to in section 101(d)(15) of the
8 Uruguay Round Agreements Act (19 U.S.C.
9 3511(d)(15)), and achieving improvements in
10 the standards of that Agreement;

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

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

20 (iv) providing strong enforcement of
21 intellectual property rights, including through

1 accessible, expeditious, and effective civil and
2 criminal enforcement mechanisms; and

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

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

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

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

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

18 **SEC. 3. TRADE AGREEMENTS AUTHORITY.**

19 (a) AGREEMENTS REGARDING TARIFF BARRIERS. -

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

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

6 (A) on or before October 1, 2005 ~~March 1,~~
7 ~~2001~~ may enter into trade agreements with foreign
8 countries; and

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

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

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

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

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

21 (A) reduces any rate of duty (other than a rate

1 of duty that does not exceed 5 percent ad valorem
2 on the date of the enactment of this Act) to a rate of
3 duty which is less than 50 percent of the rate of such
4 duty that applies on such date of enactment;

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

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

12 (3) AGGREGATE REDUCTION; EXEMPTION FROM
13 STAGING. -

14 (A) AGGREGATE REDUCTION. - Except as
15 provided in subparagraph (B), the aggregate
16 reduction in the rate of duty on any article which is
17 in effect on any day pursuant to a trade agreement
18 entered into under paragraph (1) shall not exceed
19 the aggregate reduction which would have been in
20 effect on such day if a reduction of 3 percent ad
21 valorem or a reduction of one-tenth of the total

1 reduction, whichever is greater, had taken effect on
2 the effective date of the first reduction proclaimed
3 under paragraph (1) to carry out such agreement
4 with respect to such article.

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (i) the reduction or elimination of such

1 duty, restriction, barrier, or other distortion, or

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

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

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

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

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

8 ~~_____ (B) Notwithstanding subparagraph (A), trade~~
9 ~~authorities procedures may also apply to an~~
10 ~~implementing bill to which subparagraph (A)~~
11 ~~applies that contains any of the following—~~

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

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

6 ~~(ii) Provisions necessary for purposes of~~
7 ~~complying with section 252 of the Balanced~~
8 ~~Budget and Emergency Deficit Control Act of~~
9 ~~1985 in implementing the applicable trade~~
10 ~~agreement.~~

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

13 (1) IN GENERAL. - Except as provided in section
14 5(b)-

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

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

1 subsection (b) after December 15, 2001, and before
2 December 15, 2005, if (and only if)–

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

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

8 ~~————— (2) REPORT TO CONGRESS BY THE PRESIDENT.~~

9 ~~If the President is of the opinion that the trade authorities~~
10 ~~procedures should be extended to implementing bills~~
11 ~~described in paragraph (1)(B), the President shall submit~~
12 ~~to the Congress, not later than July 1, 2001, a written~~
13 ~~report that contains a request for such extension, together~~
14 ~~with–~~

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

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

1 progress justifies the continuation of negotiations;
2 and
3 ~~————— (C) a statement of the reasons why the~~
4 ~~extension is needed to complete the negotiations.~~
5 ~~————— (3) REPORT TO CONGRESS BY THE ADVISORY~~
6 ~~COMMITTEE. — The President shall promptly inform the~~
7 ~~Advisory Committee for Trade Policy and Negotiations~~
8 ~~established under section 135 of the Trade Act of 1974~~
9 ~~(19 U.S.C. 2155) of the President's decision to submit a~~
10 ~~report to the Congress under paragraph (2). The Advisory~~
11 ~~Committee shall submit to the Congress as soon as~~
12 ~~practicable, but not later than August 1, 2001, a written~~
13 ~~report that contains —~~
14 ~~————— (A) its views regarding the progress that has~~
15 ~~been made in negotiations to achieve the purposes~~
16 ~~and policies of this act; and~~
17 ~~————— (B) a statement of its views, and the reasons~~
18 ~~therefor, regarding whether the extension requested~~
19 ~~under paragraph (2) should be approved or~~
20 ~~disapproved.~~
21 ~~————— (4) REPORTS MAY BE CLASSIFIED. The reports~~

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

4 ~~————— (5) EXTENSION DISAPPROVAL RESOLUTIONS. —~~

5 ~~————— (A) For purposes of this subsection, the term~~
6 ~~“extension disapproval resolution” means a~~
7 ~~resolution of either House of the Congress, the sole~~
8 ~~matter after the resolving clause of which is as~~
9 ~~follows: “That the _____ disapproves the request of~~
10 ~~the President for the extension, under section~~
11 ~~2(e)(1)(B)(i) of the Trade Agreements Authority~~
12 ~~Act of 1997, of the provisions of section 151 of the~~
13 ~~Trade Act of 1974 to any implementing bill~~
14 ~~submitted with respect to any trade agreement~~
15 ~~entered into under section 2(b) of the Trade~~
16 ~~Agreements Authority Act of 1997 after December~~
17 ~~15, 2001.”, with the blank space being filled with~~
18 ~~the name of the resolving House of the Congress.~~

19 ~~————— (B) Extension disapproval resolutions —~~

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

1 and

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

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

10 ~~_____ (D) It is not in order for --~~

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

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

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

21 **SEC. 4. CONSULTATIONS.**

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

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

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

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

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

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

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

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

11 (A) the nature of the agreement;

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

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

21 (c) ADVISORY COMMITTEE REPORTS. - The report

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

8 **SEC. 5. IMPLEMENTATION OF TRADE AGREEMENTS.**

9 (a) IN GENERAL. -

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

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

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

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

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

6 (i) a draft of an implementing bill;

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

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

12 (D) the implementing bill is enacted into law.

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

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

19 (B) a statement -

20 (i) asserting that the agreement makes
21 progress in achieving the applicable purposes

1 and policies of this act; and

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

4 (I) how and to what extent the
5 agreement makes progress in achieving
6 the applicable purposes and policies
7 referred to in clause (i), and why and to
8 what extent the agreement does not
9 achieve other applicable purposes and
10 policies;

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

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

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

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

1 obligations imposed by such agreement, the President
2 shall recommend to Congress in the implementing bill
3 and statement of administrative action submitted with
4 respect to such agreement that the benefits and obligations
5 of such agreement apply solely to the parties to such
6 agreement, if such application is consistent with the terms
7 of such agreement. The President may also recommend
8 with respect to any such agreement that the benefits and
9 obligations of such agreement not apply uniformly to all
10 parties to such agreement, if such application is consistent
11 with the terms of such agreement.

12 (b) LIMITATIONS ON TRADE AUTHORITIES
13 PROCEDURES. -

14 (1) FOR LACK OF CONSULTATIONS. -

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

21 (B) For purposes of this paragraph, the term

1 “procedural disapproval resolution” means a
2 resolution of either House of the Congress, the sole
3 matter after the resolving clause of which is as
4 follows: “That the President has failed or refused to
5 consult with the Congress on trade negotiations and
6 trade agreements in accordance with section 4(b) of
7 the Trade Agreements Authority Act of 1997 and,
8 therefore, the provisions of section 151 of the Trade
9 Act of 1974 shall not apply to any implementing bill
10 submitted with respect to any trade agreement
11 entered into under section 3(b) of the Trade
12 Agreements Authority Act 1997.”.

13 (2) PROCEDURES FOR CONSIDERING RESOLUTIONS. -

14 (A) PROCEDURAL DISAPPROVAL
15 RESOLUTIONS -

16 (i) in the House of Representatives -

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

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

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

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

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

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

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

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

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

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

11 **SEC. 6. TREATMENT OF CERTAIN TRADE**
12 **AGREEMENTS.**

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

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

1 that were commenced before such date of enactment -

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

5 (2) if such agreement is entered into before June 15,
6 1998, section 5(a)(1)(A) shall be applied by substituting "30"
7 for "90".

8 **SEC. 7. CONFORMING AMENDMENTS.**

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

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

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

17 (A) in subsection (a) -

18 (i) in paragraph (1), by striking "section
19 123 of this Act or section 1102 (a) or (c) of
20 the Omnibus Trade and Competitiveness Act
21 of 1988," and inserting "section 123 of this

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

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

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

12 (C) in subsection (c), by striking “of this Act
13 or section 1102 of the Omnibus Trade and
14 Competitiveness Act of 1988," and inserting “of this
15 Act, section 1102 of the Omnibus Trade and
16 Competitiveness Act of 1988, or section 3 of the
17 Trade Agreements Authority Act of 1997.”

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

1 inserting “, section 1102 of the Omnibus Trade and
2 Competitiveness Act of 1988, or section 3 of the Trade
3 Agreements Authority Act of 1997,”.

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

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

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

12 (A) in paragraph (1), by inserting “or section
13 3 of the Trade Agreements Authority Act of 1997”
14 after “1988” the first two places it appears, and by
15 inserting “or section 5(a)(1)(A) of the Trade
16 Agreements Authority Act of 1997” after “1988” the
17 third place it appears; and

18 (B) in paragraph (2), by inserting “or section
19 3 of the Trade Agreements Authority Act of 1997”
20 after “1988”.

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

1 OF THE TRADE ACT OF 1974. - For purposes of applying
2 sections 125, 126, and 127 of the Trade Act of 1974 (19 U.S.C.
3 2135, 2136(a), and 2137) -

4 (1) any trade agreement entered into under section
5 3 shall be treated as an agreement entered into under
6 section 101 or 102, as appropriate, of the Trade Act of
7 1974 (19 U.S.C. 2111 or 2112); and

8 (2) any proclamation or Executive order issued
9 pursuant to a trade agreement entered into under section
10 3 shall be treated as a proclamation or Executive order
11 issued pursuant to a trade agreement entered into under
12 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^A 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 determining how to implement trade agreements. Requests for fast track have always included extensive 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 Committee 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.
 - Partly this is a question of how we structure the bill. 1) trade related
 - 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. 2) appropriate
 - We are going to have to drive that point home. The key is to use our leverage effectively, not the mechanism we use. 3) duration

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. with 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".

- o 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.

- o 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

- o 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.

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

- o 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.

- o 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.

- o 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.

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

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.

Alternatives

1) Negotiating Objectives

- 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) Duration

- 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) Notification, Consultation, Withdrawal of Fast Track

- a) Package based on 1988 Act provisions (pre-negotiation notice and consultations with W&M and Finance and other ⁷ 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).

- leg history of consultations & multilateral sectors*
- 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.
 - 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 specific objectives; or 3) Congress must approve use of fast-track prior to negotiations. *76*

4) Scope of Implementing Bills

- and Not inconsistent w/ objective*
- 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.

- 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". But 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 negotiating objectives; or 2) "define and clarify, or [be] congruent with, the operation and effect of the agreement 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 list 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: OC 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

at
lead to Dec 15, 2001
2
March 1, 2002

red
disappeared

too
short

- **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
just
if 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;
- The implementing bill is enacted into law

*any
time
limitation*

- 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
to US
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;

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

7 (6) to address those aspects of foreign govern-
8 ment policies and practices regarding labor, the envi-
9 ronment, and other matters which are specifically re-
10 lated to trade and decrease market opportunities for
11 United States exports or distort or impede United
12 States imports or exports.

13 (b) PRINCIPAL TRADE NEGOTIATING OBJECTIVES.—

14 (1) SPECIFIC BARRIERS.—The principal nego-
15 tiating objectives of the United States regarding spe-
16 cific trade barriers and other trade distortions are to
17 expand competitive market opportunities for United
18 States exports and to obtain more open and fair con-
19 ditions of trade by reducing or eliminating specific
20 tariff and nontariff trade barriers and policies and
21 practices of foreign governments directly related to
22 trade that distort or impede United States imports
23 or exports.

1 (2) TRADE IN SERVICES.—The principal nego-
2 tiating objectives of the United States regarding
3 trade in services are—

4 (A) to reduce or eliminate barriers to
5 international trade in services, including regu-
6 latory and other barriers that deny national
7 treatment and restrict the establishment and
8 operations of service suppliers; and

9 (B) in the negotiations on financial serv-
10 ices conducted under the auspices of the World
11 Trade Organization, to secure commitments, in
12 a wide range of commercially important indus-
13 trial and developing countries, to reduce or
14 eliminate barriers to the supply of financial
15 services, including barriers that deny national
16 treatment and restrictions on the establishment
17 and operation of financial services providers, as
18 the condition for the United States—

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

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

1 (3) FOREIGN DIRECT INVESTMENT.—The prin-
2 cipal negotiating objective of the United States re-
3 garding foreign direct investment is to reduce or
4 eliminate artificial or trade-distorting barriers to for-
5 eign direct investment by—

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

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

10 (C) reducing or eliminating performance
11 requirements;

12 (D) affirming international legal standards
13 for expropriation and compensation for expro-
14 priation; and

15 (E) providing meaningful procedures for
16 resolving investment disputes.

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

20 (A) to further promote adequate and effec-
21 tive protection of intellectual property rights,
22 including through—

23 (i) accelerating the implementation
24 globally of the Agreement on Trade-Relat-
25 ed Aspects of Intellectual Property Rights

1 referred to in section 101(d)(15) of the
2 Uruguay Round Agreements Act (19
3 U.S.C. 3511(d)(15)), and achieving im-
4 provements in the standards of that Agree-
5 ment;

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

10 (iii) preventing or eliminating dis-
11 crimination with respect to matters affect-
12 ing the availability, acquisition, scope,
13 maintenance, use, and enforcement of in-
14 tellectual property rights; and

15 (iv) providing strong enforcement of
16 intellectual property rights, including
17 through accessible, expeditious, and effec-
18 tive civil and criminal enforcement mecha-
19 nisms; and

20 (B) to secure fair, equitable, and non-
21 discriminatory market access opportunities for
22 United States persons that rely upon intellec-
23 tual property protection.

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

1 parency is to obtain broader application of the prin-
2 ciple of transparency through—

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

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

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

4. 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

3
4 **SEC. 1. SHORT TITLE.**

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

7 **SEC. 2. FINDINGS AND RECOMMENDATIONS.**

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

1 (b) ADHERENCE TO OBLIGATIONS UNDER
2 URUGUAY ROUND AGREEMENTS. - In determining whether
3 to enter into negotiations with a particular country, the President
4 shall take into account whether that country has implemented its
5 obligations under the Uruguay Round Agreements (as defined in section 2 of the Uruguay Round Agreements Act).
6

*+ these are
negotiations
can be
Spain
implementation*

7 **SEC. 3. TRADE AGREEMENTS AUTHORITY.**

8 (a) AGREEMENTS REGARDING TARIFF BARRIERS.-

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

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

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

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

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

26 (iii) such additional duties, as the President
27 determines to be required or appropriate to carry
28

1 out any such trade agreement.

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

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

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

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

16 (3) AGGREGATE REDUCTION; EXEMPTION
17 FROM STAGING.-

18 (A) AGGREGATE REDUCTION.- Except as
19 provided in subparagraph (B), the aggregate reduction
20 in the rate of duty on any article which is in effect on
21 any day pursuant to a trade agreement entered into
22 under paragraph (1) shall not exceed the aggregate
23 reduction which would have been in effect on such day
24 if a reduction of 3 percent ad valorem or a reduction of
25 one-tenth of the total reduction, whichever is greater,
26 had taken effect on the effective date of the first
27 reduction proclaimed under paragraph (1) to carry out
28

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

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

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

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

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

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

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

21 (B) the imposition of any such barrier or
22 distortion is likely to result in such a burden,
23 restriction, or effect, and that the purposes and policies
24 of this act will be promoted thereby, the President may,
25 during the period beginning on January 1, 1998, and
26 ending on December 15, 2001 (or December 15, 2005,
27 if trade authorities procedures are extended under
28

4 + 4 =

1 subsection (c)), enter into a trade agreement with
2 foreign countries providing for-

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

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

7 ✓ (2) CONDITIONS.-A trade agreement may be entered
8 into under this subsection only if [such agreement makes
9 progress in meeting ^{added} the specific objectives for the
10 negotiations set forth in the written notice provided by the
11 President under section 4(a)(1) and] the President satisfies
12 the conditions set forth in section 5.

new language 2

13 (3) BILLS QUALIFYING FOR TRADE
14 AUTHORITIES PROCEDURES.-

15 (A) The provisions of section 151 of the Trade
16 Act of 1974 (in this act referred to as "trade authorities
17 procedures") apply to implementing bills submitted
18 with respect to trade agreements entered ^{also under} subsection
19 (b)(1).

necessary or appropriate

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

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

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

1 (B) the trade authorities procedures shall be
2 extended to implementing bills submitted with respect
3 to trade agreements entered into under subsection (b)
4 after December 15, 2001, and before December 15,
5 2005, if (and only if)-

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

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

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

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

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

27 (C) a statement of the reasons why the extension
28

1 is needed to complete the negotiations.

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

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

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

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

22 (5) EXTENSION DISAPPROVAL RESOLUTIONS.-

23 (A) For purposes of this subsection, the term
24 "extension disapproval resolution" means a resolution
25 of either House of the Congress, the sole matter after
26 the resolving clause of which is as follows: "That the
27 _____ disapproves the request of the President for the

1 extension, under section 2(c)(1)(B)(i) of the Trade
2 Agreements Authority Act of 1997, of the provisions
3 of section 151 of the Trade Act of 1974 to any
4 implementing bill submitted with respect to any trade
5 agreement entered into under section 2(b) of the Trade
6 Agreements Authority Act of 1997 after December 15,
7 2001.”, with the blank space being filled with the name
8 of the resolving House of the Congress.

9 (B) Extension disapproval resolutions-

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

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

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

20 (D) It is not in order for-

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

24 (ii) the House of Representatives to
25 consider any extension disapproval resolution
26 not reported by the Committee on Ways and
27 Means and the Committee on Rules; or
28

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

4 **SEC. 4. CONSULTATIONS.**

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

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

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

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

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

26 (A) the Committee on Ways and Means of the
27 House of Representatives and the Committee on
28

1 Finance of the Senate; and

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

7 (2) SCOPE.-The consultation described in paragraph

8 (1) shall include consultation with respect to-

9 (A) the nature of the agreement;

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

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

19 (c) ADVISORY COMMITTEE REPORTS.-The report
20 required under section 135(e)(1) of the Trade Act of 1974
21 regarding any trade agreement entered into under section 3 (a) or
22 (b) of this act shall be provided to the President, the Congress, and
23 the United States Trade Representative not later than 30 days after
24 the date on which the President notifies the Congress under section
25 5(a)(1)(A) of the President's intention to enter into the agreement.

1 **SEC.5. IMPLEMENTATION OF TRADE AGREEMENTS.**

2 (a) IN GENERAL.-

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

6 (A) the President, at least 90 calendar days before

7 ✓ the day on which the President enters into the trade
8 agreement, notifies the House of Representatives and the
9 Senate of the President's intention to enter into the
10 agreement, and promptly thereafter publishes notice of
11 such intention in the Federal Register;

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

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

20 (i) a draft of an implementing bill;

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

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

25 (D) the implementing bill is enacted into
26 law.

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

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

7 (B) a statement--

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

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

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

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

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

24 (IV) why the implementing bill and
25 proposed administrative action is required or
26 appropriate to carry out the agreement.
27
28

1 (b) LIMITATIONS ON TRADE AUTHORITIES
2 PROCEDURES.-

3 (1) FOR LACK OF CONSULTATIONS.--

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

10 (B) for purposes of this paragraph, the term
11 "procedural disapproval resolution" means a resolution
12 of either House of the Congress, the sole matter after
13 the resolving clause of which is as follows: "That the
14 President has failed or refused to consult with the
15 Congress on trade negotiations and trade agreements
16 in accordance with section 4(b) of the Trade
17 Agreements Authority Act of 1997 and, therefore, the
18 provisions of section 151 of the Trade Act of 1974
19 shall not apply to any implementing bill submitted
20 with respect to any trade agreement entered into under
21 section 3(b) of the Trade Agreements Authority Act
22 1997."

23 (2) PROCEDURES FOR CONSIDERING
24 RESOLUTIONS.-

25 (A) Procedural disapproval
26 resolutions-

27 (i) in the House of Representatives--

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

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

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

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

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

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

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

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

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

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

7 **SEC. 6. TREATMENT OF CERTAIN TRADE AGREEMENTS.**

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

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

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

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

25 **SEC. 7. CONFORMING AMENDMENTS.**

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

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

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

7 (A) in subsection (a)-

8 (i) in paragraph (1), by striking "section
9 123 of this Act or section 1102 (a) or (c) of the
10 Omnibus Trade and Competitiveness Act of
11 1988," and inserting "section 123 of this Act,
12 section 1102 (a) or (c) of the Omnibus Trade and
13 Competitiveness Act of 1988, or section 3 (a) or
14 (b) of the Trade Agreements Authority Act of
15 1997,"

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

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

23 (C) in subsection (c), by striking "of this Act of
24 section 1102 of the Omnibus Trade and
25 Competitiveness Act of 1988," and inserting "of this
26 Act, section 1102 of the Omnibus Trade and
27 Competitiveness Act of 1988, or section 3 of the Trade
28

1 Agreements Authority Act of 1997.”

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

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

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

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

16 (A) in paragraph (1), by inserting “or section 3 of
17 the Trade Agreements Authority Act of 1997” after
18 “1988” the first two places it appears, and by inserting
19 “or section 5(a)(1)(A) of the Trade Agreements
20 Authority Act of 1997” after “1988” the third place it
21 appears; and

22 (B) in paragraph (2), by inserting “or section 3 of
23 the Trade Agreements Authority Act of 1997” after
24 “1988”.

25 (b) APPLICATION OF SECTIONS 125, 126, AND 127 OF
26 THE TRADE ACT OF 1974.-For purposes of applying sections
27 125, 126, and 127 of the Trade Act of 1974 (19 U.S.C. 2135,
28

1 2136(a), and 2137)-

2 (1) any trade agreement entered into under section 3
3 shall be treated as an agreement entered into under section
4 101 or 102, as appropriate, of the Trade Act of 1974 (19
5 U.S.C. 2111 or 2112); and

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

Duration - Extension
yr 2001 → yr 2005 = 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:	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

90/90
initiating
signing
60 after

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.