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Part 1

BIPARTISAN TRADE PROMOTION AUTHORITY ACT OF 2001

OCTOBER 16, 2001.—Ordered to be printed

Mr. THOMAS, from the Committee on Ways and Means, submitted the following

R E P O R T

together with

ADDITIONAL AND DISSENTING VIEWS

[To accompany H.R. 3005]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 3005) to extend trade authorities procedures with respect to reciprocal trade agreements, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Bipartisan Trade Promotion Authority Act of 2001".

(b) FINDINGS.—The Congress makes the following findings:

(1) The expansion of international trade is vital to the national security of the United States. Trade is critical to the economic growth and strength of the United States and to its leadership in the world. Stable trading relationships promote security and prosperity. Trade agreements today serve the same purposes that security pacts played during the Cold War, binding nations together through a series of mutual rights and obligations. Leadership by the United States in international trade fosters open markets, democracy, and peace throughout the world.

(2) The national security of the United States depends on its economic security, which in turn is founded upon a vibrant and growing industrial base. Trade expansion has been the engine of economic growth. Trade agreements maximize opportunities for the critical sectors and building blocks of the economy of the United States, such as information technology, telecommunications and other leading technologies, basic industries, capital equipment, medical equipment, services, agriculture, environmental technology, and intellectual property. Trade will create new opportunities for the United States and preserve the unparalleled strength of the United States in economic, political, and military affairs. The United States, secured by expanding trade and economic opportunities, will meet the challenges of the twenty-first century.

SEC. 2. 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 3 are—

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

(2) to obtain the reduction or elimination of barriers and distortions that are directly related to trade and that decrease market opportunities for United States exports or otherwise distort United States trade;

(3) to further strengthen the system of international trading disciplines and procedures, including dispute settlement;

(4) to foster economic growth, raise living standards, and promote full employment in the United States and to enhance the global economy;

(5) to ensure that trade and environmental policies are mutually supportive and to seek to protect and preserve the environment and enhance the international means of doing so, while optimizing the use of the world's resources; and

(6) to promote respect for worker rights and the rights of children consistent with core labor standards of the International Labor Organization (as defined in section 10(2)) and an understanding of the relationship between trade and worker rights.

(b) PRINCIPAL TRADE NEGOTIATING OBJECTIVES.—

(1) TRADE BARRIERS AND DISTORTIONS.—The principal negotiating objectives of the United States regarding trade barriers and other trade distortions are—

(A) to expand competitive market opportunities for United States exports and to obtain fairer and more open conditions of trade by reducing or eliminating tariff and nontariff barriers and policies and practices of foreign governments directly related to trade that decrease market opportunities for United States exports or otherwise distort United States trade; and

(B) to obtain reciprocal tariff and nontariff barrier elimination agreements, with particular attention to those tariff categories covered in section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

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

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

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

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

(C) reducing or eliminating performance requirements, forced technology transfers, and other unreasonable barriers to the establishment and operation of investments;

(D) seeking to establish standards for expropriation and compensation for expropriation, consistent with United States legal principles and practice;

(E) providing meaningful procedures for resolving investment disputes; and

(F) seeking to improve mechanisms used to resolve disputes between an investor and a government through—

(i) mechanisms to eliminate frivolous claims;

(ii) procedures to ensure the efficient selection of arbitrators and the expeditious disposition of claims; and

(iii) procedures to increase transparency in investment disputes.

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

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

(i)(I) ensuring accelerated and full implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15)), particularly with respect to meeting enforcement obligations under that agreement; and

(II) ensuring that the provisions of any multilateral or bilateral trade agreement governing intellectual property rights that is entered into by the United States reflect a standard of protection similar to that found in United States law;

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

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

(iv) ensuring that standards of protection and enforcement keep pace with technological developments, and in particular ensuring that rightholders have the legal and technological means to control the use of their works through the Internet and other global communication media, and to prevent the unauthorized use of their works; and

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

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

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

(A) increased and more timely public access to information regarding trade issues and the activities of international trade institutions;

(B) increased openness at the WTO and other international trade fora by increasing public access to appropriate meetings, proceedings, and submissions, including with regard to dispute settlement and investment; and

(C) increased and more timely public access to all notifications and supporting documentation submitted by parties to the WTO.

(6) ANTI-CORRUPTION.—The principal negotiating objectives of the United States with respect to the use of money or other things of value to influence acts, decisions, or omissions of foreign governments or officials or to secure any improper advantage in a manner affecting trade are—

(A) to obtain high standards and appropriate domestic enforcement mechanisms applicable to persons from all countries participating in the applicable trade agreement that prohibit such attempts to influence acts, decisions, or omissions of foreign governments; and

(B) to ensure that such standards do not place United States persons at a competitive disadvantage in international trade.

(7) IMPROVEMENT OF THE WTO AND MULTILATERAL TRADE AGREEMENTS.—The principal negotiating objectives of the United States regarding the improvement of the World Trade Organization, the Uruguay Round Agreements, and other multilateral and bilateral trade agreements are—

(A) to achieve full implementation and extend the coverage of the World Trade Organization and such agreements to products, sectors, and conditions of trade not adequately covered; and

(B) to expand country participation in and enhancement of the Information Technology Agreement and other trade agreements.

(8) REGULATORY PRACTICES.—The principal negotiating objectives of the United States regarding the use of government regulation or other practices by foreign governments to provide a competitive advantage to their domestic producers, service providers, or investors and thereby reduce market access for United States goods, services, and investments are—

(A) to achieve increased transparency and opportunity for the participation of affected parties in the development of regulations;

(B) to require that proposed regulations be based on sound science, cost-benefit analysis, risk assessment, or other objective evidence;

(C) to establish consultative mechanisms among parties to trade agreements to promote increased transparency in developing guidelines, rules, regulations, and laws for government procurement and other regulatory regimes; and

(D) to achieve the elimination of government measures such as price controls and reference pricing which deny full market access for United States products.

(9) ELECTRONIC COMMERCE.—The principal negotiating objectives of the United States with respect to electronic commerce are—

(A) to ensure that current obligations, rules, disciplines, and commitments under the World Trade Organization apply to electronic commerce;

(B) to ensure that—

(i) electronically delivered goods and services receive no less favorable treatment under trade rules and commitments than like products delivered in physical form; and

(ii) the classification of such goods and services ensures the most liberal trade treatment possible;

(C) to ensure that governments refrain from implementing trade-related measures that impede electronic commerce;

(D) where legitimate policy objectives require domestic regulations that affect electronic commerce, to obtain commitments that any such regulations are the least restrictive on trade, nondiscriminatory, and transparent, and promote an open market environment; and

(E) to extend the moratorium of the World Trade Organization on duties on electronic transmissions.

(10) RECIPROCAL TRADE IN AGRICULTURE.—(A) The principal negotiating objective of the United States with respect to agriculture is to obtain competitive opportunities for United States exports of agricultural commodities in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of trade in bulk, specialty crop, and value-added commodities by—

(i) reducing or eliminating, by a date certain, tariffs or other charges that decrease market opportunities for United States exports—

(I) giving priority to those products that are subject to significantly higher tariffs or subsidy regimes of major producing countries; and

(II) providing reasonable adjustment periods for United States import-sensitive products, in close consultation with the Congress on such products before initiating tariff reduction negotiations;

(ii) reducing tariffs to levels that are the same as or lower than those in the United States;

(iii) reducing or eliminating subsidies that decrease market opportunities for United States exports or unfairly distort agriculture markets to the detriment of the United States;

(iv) allowing the preservation of programs that support family farms and rural communities but do not distort trade;

(v) developing disciplines for domestic support programs, so that production that is in excess of domestic food security needs is sold at world prices;

(vi) eliminating Government policies that create price-depressing surpluses;

(vii) eliminating state trading enterprises whenever possible;

(viii) developing, strengthening, and clarifying rules and effective dispute settlement mechanisms to eliminate practices that unfairly decrease United States market access opportunities or distort agricultural markets to the detriment of the United States, particularly with respect to import-sensitive products, including—

(I) unfair or trade-distorting activities of state trading enterprises and other administrative mechanisms, with emphasis on requiring price transparency in the operation of state trading enterprises and such other mechanisms in order to end cross subsidization, price discrimination, and price undercutting;

(II) unjustified trade restrictions or commercial requirements, such as labeling, that affect new technologies, including biotechnology;

(III) unjustified sanitary or phytosanitary restrictions, including those not based on scientific principles in contravention of the Uruguay Round Agreements;

(IV) other unjustified technical barriers to trade; and

(V) restrictive rules in the administration of tariff rate quotas;

(ix) eliminating practices that adversely affect trade in perishable or cyclical products, while improving import relief mechanisms to recognize the unique characteristics of perishable and cyclical agriculture;

(x) ensuring that the use of import relief mechanisms for perishable and cyclical agriculture are as accessible and timely to growers in the United States as those mechanisms that are used by other countries;

(xi) taking into account whether a party to the negotiations has failed to adhere to the provisions of already existing trade agreements with the United States or has circumvented obligations under those agreements;

(xii) taking into account whether a product is subject to market distortions by reason of a failure of a major producing country to adhere to the provisions of already existing trade agreements with the United States or by the circumvention by that country of its obligations under those agreements;

(xiii) otherwise ensuring that countries that accede to the World Trade Organization have made meaningful market liberalization commitments in agriculture;

(xiv) taking into account the impact that agreements covering agriculture to which the United States is a party, including the North American Free Trade Agreement, have on the United States agricultural industry; and

(xv) maintaining bona fide food assistance programs and preserving United States market development and export credit programs.

(B)(i) Before commencing negotiations with respect to agriculture, the United States Trade Representative, in consultation with the Congress, shall seek to develop a position on the treatment of seasonal and perishable agricultural products to be employed in the negotiations in order to develop an international consensus on the treatment of seasonal or perishable agricultural products in investigations relating to dumping and safeguards and in any other relevant area.

(ii) During any negotiations on agricultural subsidies, the United States Trade Representative shall seek to establish the common base year for calculating the Aggregated Measurement of Support (as defined in the Agreement on Agriculture) as the end of each country's Uruguay Round implementation period, as reported in each country's Uruguay Round market access schedule.

(iii) The negotiating objective provided in subparagraph (A) applies with respect to agricultural matters to be addressed in any trade agreement entered into under section 3 (a) or (b), including any trade agreement entered into under section 3 (a) or (b) that provides for accession to a trade agreement to which the United States is already a party, such as the North American Free Trade Agreement and the United States-Canada Free Trade Agreement.

(11) LABOR AND THE ENVIRONMENT.—The principal negotiating objectives of the United States with respect to labor and the environment are—

(A) to ensure that a party to a trade agreement with the United States does not fail to effectively enforce its environmental or labor laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the United States and that party after entry into force of a trade agreement between those countries;

(B) to recognize that parties to a trade agreement retain the right to exercise discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters and to make decisions regarding the allocation of resources to enforcement with respect to other labor or environmental matters determined to have higher priorities, and to recognize that a country is effectively enforcing its laws if a course of action or inaction reflects a reasonable exercise of such discretion, or results from a bona fide decision regarding the allocation of resources;

(C) to strengthen the capacity of United States trading partners to promote respect for core labor standards (as defined in section 10(2));

(D) to strengthen the capacity of United States trading partners to protect the environment through the promotion of sustainable development;

(E) to reduce or eliminate government practices or policies that unduly threaten sustainable development;

(F) to seek market access, through the elimination of tariffs and nontariff barriers, for United States environmental technologies, goods, and services; and

(G) to ensure that labor, environmental, health, or safety policies and practices of the parties to trade agreements with the United States do not arbitrarily or unjustifiably discriminate against United States exports or serve as disguised barriers to trade.

(12) DISPUTE SETTLEMENT AND ENFORCEMENT.—The principal negotiating objectives of the United States with respect to dispute settlement and enforcement of trade agreements are—

(A) to seek provisions in trade agreements providing for resolution of disputes between governments under those trade agreements in an effective, timely, transparent, equitable, and reasoned manner, requiring determinations based on facts and the principles of the agreements, with the goal of increasing compliance with the agreements;

(B) to seek to strengthen the capacity of the Trade Policy Review Mechanism of the World Trade Organization to review compliance with commitments;

(C) to seek provisions encouraging the early identification and settlement of disputes through consultation;

(D) to seek provisions to encourage the provision of trade-expanding compensation if a party to a dispute under the agreement does not come into compliance with its obligations under the agreement;

(E) to seek provisions to impose a penalty upon a party to a dispute under the agreement that—

(i) encourages compliance with the obligations of the agreement;

(ii) is appropriate to the parties, nature, subject matter, and scope of the violation; and

(iii) has the aim of not adversely affecting parties or interests not party to the dispute while maintaining the effectiveness of the enforcement mechanism; and

(F) to seek provisions that treat United States principal negotiating objectives equally with respect to—

(i) the ability to resort to dispute settlement under the applicable agreement;

(ii) the availability of equivalent dispute settlement procedures; and

(iii) the availability of equivalent remedies.

(13) WTO EXTENDED NEGOTIATIONS.—The principal negotiating objectives of the United States regarding trade in civil aircraft are those set forth in section 135(c) of the Uruguay Round Agreements Act (19 U.S.C. 3355(c)) and regarding rules of origin are the conclusion of an agreement described in section 132 of that Act (19 U.S.C. 3552).

(c) PROMOTION OF CERTAIN PRIORITIES.—In order to address and maintain United States competitiveness in the global economy, the President shall—

(1) seek greater cooperation between the WTO and the ILO;

(2) seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of United States trading partners to promote respect for core labor standards (as defined in section 10(2)), and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the content and operation of such mechanisms;

(3) seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of United States trading partners to develop and implement standards for the protection of the environment and human health based on sound science, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the content and operation of such mechanisms;

(4) conduct environmental reviews of future trade and investment agreements, consistent with Executive Order 13141 of November 16, 1999 and its relevant guidelines, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such reviews;

(5) review the impact of future trade agreements on United States employment, modeled after Executive Order 13141, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such review;

(6) take into account other legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essen-

tial security, and consumer interests and the law and regulations related thereto;

(7) have the Secretary of Labor consult with any country seeking a trade agreement with the United States concerning that country's labor laws and provide technical assistance to that country if needed;

(8) with respect to any trade agreement which the President seeks to implement under trade authorities procedures, submit to the Congress a report describing the extent to which the country or countries that are parties to the agreement have in effect laws governing exploitative child labor;

(9) preserve the ability of the United States to enforce rigorously its trade laws, including the antidumping and countervailing duty laws, and avoid agreements which lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies, in order to ensure that United States workers, agricultural producers, and firms can compete fully on fair terms and enjoy the benefits of reciprocal trade concessions;

(10) continue to promote consideration of multilateral environmental agreements and consult with parties to such agreements regarding the consistency of any such agreement that includes trade measures with existing environmental exceptions under Article XX of the GATT 1994; and

(11) report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, not later than 12 months after the imposition of a penalty or remedy by the United States permitted by a trade agreement to which this Act applies, on the effectiveness of the penalty or remedy applied under United States law in enforcing United States rights under the trade agreement.

The report under paragraph (11) shall address whether the penalty or remedy was effective in changing the behavior of the targeted party and whether the penalty or remedy had any adverse impact on parties or interests not party to the dispute.

(d) CONSULTATIONS.—

(1) CONSULTATIONS WITH CONGRESSIONAL ADVISERS.—In the course of negotiations conducted under this Act, the United States Trade Representative shall consult closely and on a timely basis with, and keep fully apprised of the negotiations, the Congressional Oversight Group convened under section 7 and all committees of the House of Representatives and the Senate with jurisdiction over laws that would be affected by a trade agreement resulting from the negotiations.

(2) CONSULTATION BEFORE AGREEMENT INITIALED.—In the course of negotiations conducted under this Act, the United States Trade Representative shall—

(A) consult closely and on a timely basis (including immediately before initialing an agreement) with, and keep fully apprised of the negotiations, the congressional advisers for trade policy and negotiations appointed under section 161 of the Trade Act of 1974 (19 U.S.C. 2211), the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Congressional Oversight Group convened under section 7; and

(B) with regard to any negotiations and agreement relating to agricultural trade, also consult closely and on a timely basis (including immediately before initialing an agreement) with, and keep fully apprised of the negotiations, the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(e) ADHERENCE TO OBLIGATIONS UNDER URUGUAY ROUND AGREEMENTS.—In determining whether to enter into negotiations with a particular country, the President shall take into account the extent to which that country has implemented, or has accelerated the implementation of, its obligations under the Uruguay Round Agreements.

SEC. 3. TRADE AGREEMENTS AUTHORITY.

(a) AGREEMENTS REGARDING TARIFF BARRIERS.—

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

(A) may enter into trade agreements with foreign countries before—

(i) June 1, 2005; or

(ii) June 1, 2007, if trade authorities procedures are extended under subsection (c); and

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

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

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

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

The President shall notify the Congress of the President's intention to enter into an agreement under this subsection.

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

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

(B) increases any rate of duty above the rate that applied on the date of the enactment of this Act.

(3) AGGREGATE REDUCTION; EXEMPTION FROM STAGING.—

(A) AGGREGATE REDUCTION.—Except as provided in subparagraph (B), the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a trade agreement entered into under paragraph (1) shall not exceed the aggregate reduction which would have been in effect on such day if—

(i) a reduction of 3 percent ad valorem or a reduction of one-tenth of the total reduction, whichever is greater, had taken effect on the effective date of the first reduction proclaimed under paragraph (1) to carry out such agreement with respect to such article; and

(ii) a reduction equal to the amount applicable under clause (i) had taken effect at 1-year intervals after the effective date of such first reduction.

(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 subparagraph.

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

(6) OTHER TARIFF MODIFICATIONS.—Notwithstanding paragraphs (1)(B) and (2) through (5), and subject to the consultation and layover requirements of section 115 of the Uruguay Round Agreements Act, the President may proclaim the modification of any duty or staged rate reduction of any duty set forth in Schedule XX, as defined in section 2(5) of that Act, if the United States agrees to such modification or staged rate reduction in a negotiation for the reciprocal elimination or harmonization of duties under the auspices of the World Trade Organization.

(7) AUTHORITY UNDER URUGUAY ROUND AGREEMENTS ACT NOT AFFECTED.—Nothing in this subsection shall limit the authority provided to the President under section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(b) AGREEMENTS REGARDING TARIFF AND NONTARIFF BARRIERS.—

(1) IN GENERAL.—(A) Whenever the President determines that—

(i) one or more existing duties or any other import restriction of any foreign country or the United States or any other barrier to, or other distortion of, international trade unduly burdens or restricts the foreign trade of the United States or adversely affects the United States economy; or

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

and that the purposes, policies, priorities, and objectives of this Act will be promoted thereby, the President may enter into a trade agreement described in subparagraph (B) during the period described in subparagraph (C).

(B) The President may enter into a trade agreement under subparagraph (A) with foreign countries providing for—

(i) the reduction or elimination of a duty, restriction, barrier, or other distortion described in subparagraph (A), or

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

(C) The President may enter into a trade agreement under this paragraph before—

(i) June 1, 2005; or

(ii) June 1, 2007, if trade authorities procedures are extended under subsection (c).

(2) 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 2 (a) and (b) and the President satisfies the conditions set forth in section 4.

(3) BILLS QUALIFYING FOR TRADE AUTHORITIES PROCEDURES.—(A) The provisions of section 151 of the Trade Act of 1974 (in this Act referred to as "trade authorities procedures") apply to a bill of either House of Congress which contains provisions described in subparagraph (B) to the same extent as such section 151 applies to implementing bills under that section. A bill to which this paragraph applies shall hereafter in this Act be referred to as an "implementing bill".

(B) The provisions referred to in subparagraph (A) are—

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

(ii) if changes in existing laws or new statutory authority are required to implement such trade agreement or agreements, provisions, necessary or appropriate to implement such trade agreement or agreements, either repealing or amending existing laws or providing new statutory authority.

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

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

(A) the trade authorities procedures apply to implementing bills submitted with respect to trade agreements entered into under subsection (b) before July 1, 2005; and

(B) the trade authorities procedures shall be extended to implementing bills submitted with respect to trade agreements entered into under subsection (b) after June 30, 2005, and before July 1, 2007, if (and only if)—

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

(ii) neither House of the Congress adopts an extension disapproval resolution under paragraph (5) before June 1, 2005.

(2) REPORT TO CONGRESS BY THE PRESIDENT.—If the President is of the opinion that the trade authorities procedures should be extended to implementing bills described in paragraph (1)(B), the President shall submit to the Congress, not later than March 1, 2005, a written report that contains a request for such extension, together with—

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

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

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

(3) REPORT TO CONGRESS BY THE ADVISORY COMMITTEE.—The President shall promptly inform the Advisory Committee for Trade Policy and Negotiations established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) of the President's decision to submit a report to the Congress under paragraph (2). The Advisory Committee shall submit to the Congress as soon as practicable, but not later than May 1, 2005, a written report that contains—

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

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

(4) STATUS OF REPORTS.—The reports submitted to the Congress under paragraphs (2) and (3), or any portion of such reports, may be classified to the extent the President determines appropriate.

(5) EXTENSION DISAPPROVAL RESOLUTIONS.—(A) For purposes of paragraph (1), the term "extension disapproval resolution" means a resolution of either House of the Congress, the sole matter after the resolving clause of which is as follows: "That the ____ disapproves the request of the President for the extension, under

section 3(c)(1)(B)(i) of the Bipartisan Trade Promotion Authority Act of 2001, of the trade authorities procedures under that Act to any implementing bill submitted with respect to any trade agreement entered into under section 3(b) of that Act after June 30, 2005.", with the blank space being filled with the name of the resolving House of the Congress.

(B) Extension disapproval resolutions—

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

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

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

(D) It is not in order for—

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

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

(iii) either House of the Congress to consider an extension disapproval resolution after June 30, 2005.

(d) COMMENCEMENT OF NEGOTIATIONS.—In order to contribute to the continued economic expansion of the United States, the President shall commence negotiations covering tariff and nontariff barriers affecting any industry, product, or service sector, and expand existing sectoral agreements to countries that are not parties to those agreements, in cases where the President determines that such negotiations are feasible and timely and would benefit the United States. Such sectors include agriculture, commercial services, intellectual property rights, industrial and capital goods, government procurement, information technology products, environmental technology and services, medical equipment and services, civil aircraft, and infrastructure products. In so doing, the President shall take into account all of the principal negotiating objectives set forth in section 2(b).

SEC. 4. CONSULTATIONS AND ASSESSMENT.

(a) NOTICE AND CONSULTATION BEFORE NEGOTIATION.—The President, with respect to any agreement that is subject to the provisions of section 3(b), shall—

(1) provide, at least 90 calendar days before initiating negotiations, written notice to the Congress of the President's intention to enter into the negotiations and set forth therein the date the President intends to initiate such negotiations, the specific United States objectives for the negotiations, and whether the President intends to seek an agreement, or changes to an existing agreement; and

(2) before and after submission of the notice, consult regarding the negotiations with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, such other committees of the House and Senate as the President deems appropriate, and the Congressional Oversight group convened under section 7.

(b) NEGOTIATIONS REGARDING AGRICULTURE.—Before initiating or continuing negotiations the subject matter of which is directly related to the subject matter under section 2(b)(10)(A)(i) with any country, the President shall assess whether United States tariffs on agricultural products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country. In addition, the President shall consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than United States tariffs and whether the negotiation provides an opportunity to address any such disparity. The President shall consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the results of the assessment, whether it is appropriate for the United States to agree to further tariff reductions based on the conclusions reached in the assessment, and how all applicable negotiating objectives will be met.

(c) CONSULTATION WITH CONGRESS BEFORE AGREEMENTS ENTERED INTO.—

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

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

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

(C) the Congressional Oversight Group convened under section 7.

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

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, priorities, and objectives of this Act; and

(C) the implementation of the agreement under section 5, including the general effect of the agreement on existing laws.

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

(e) ITC ASSESSMENT.—

(1) IN GENERAL.—The President, at least 90 calendar days before the day on which the President enters into a trade agreement under section 3(b), shall provide the International Trade Commission (referred to in this subsection as "the Commission") with the details of the agreement as it exists at that time and request the Commission to prepare and submit an assessment of the agreement as described in paragraph (2). Between the time the President makes the request under this paragraph and the time the Commission submits the assessment, the President shall keep the Commission current with respect to the details of the agreement.

(2) ITC ASSESSMENT.—Not later than 90 calendar days after the President enters into the agreement, the Commission shall submit to the President and the Congress a report assessing the likely impact of the agreement on the United States economy as a whole and on specific industry sectors, including the impact the agreement will have on the gross domestic product, exports and imports, aggregate employment and employment opportunities, the production, employment, and competitive position of industries likely to be significantly affected by the agreement, and the interests of United States consumers.

(3) REVIEW OF EMPIRICAL LITERATURE.—In preparing the assessment, the Commission shall review available economic assessments regarding the agreement, including literature regarding any substantially equivalent proposed agreement, and shall provide in its assessment a description of the analyses used and conclusions drawn in such literature, and a discussion of areas of consensus and divergence between the various analyses and conclusions, including those of the Commission regarding the agreement.

SEC. 5. IMPLEMENTATION OF TRADE AGREEMENTS.

(a) IN GENERAL.—

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

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

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

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

(i) a draft of an implementing bill described in section 3(b)(3);

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

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

(D) the implementing bill is enacted into law.

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

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

(B) a statement—

(i) asserting that the agreement makes progress in achieving the applicable purposes, policies, priorities, and objectives of this Act; and

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

(I) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in clause (i);

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

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

(IV) how the implementing bill meets the standards set forth in section 3(b)(3); and

(V) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in section 2(c) regarding the promotion of certain priorities.

(3) RECIPROCAL BENEFITS.—In order to ensure that a foreign country that is not a party to a trade agreement entered into under section 3(b) does not receive benefits under the agreement unless the country is also subject to the obligations under the agreement, the implementing bill submitted with respect to the agreement shall provide that the benefits and obligations under the agreement apply only to the parties to the agreement, if such application is consistent with the terms of the agreement. The implementing bill may also provide that the benefits and obligations under the agreement do not apply uniformly to all parties to the agreement, if such application is consistent with the terms of the agreement.

(b) LIMITATIONS ON TRADE AUTHORITIES PROCEDURES.—

(1) FOR LACK OF NOTICE OR CONSULTATIONS.—

(A) IN GENERAL.—The trade authorities procedures shall not apply to any implementing bill submitted with respect to a trade agreement entered into under section 3(b) if during the 60-day period beginning on the date that one House of Congress agrees to a procedural disapproval resolution for lack of notice or consultations with respect to that trade agreement, the other House separately agrees to a procedural disapproval resolution with respect to that agreement.

(B) PROCEDURAL DISAPPROVAL RESOLUTION.—For purposes of this paragraph, the term "procedural disapproval resolution" means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: "That the President has failed or refused to notify or consult (as the case may be) with Congress in accordance with section 4 or 5 of the Bipartisan Trade Promotion Authority Act of 2001 on negotiations with respect to _____ and, therefore, the trade authorities procedures under that Act shall not apply to any implementing bill submitted with respect to that trade agreement.", with the blank space being filled with a description of the trade agreement with respect to which the President is considered to have failed or refused to notify or consult.

(2) PROCEDURES FOR CONSIDERING RESOLUTIONS.—(A) Procedural disapproval resolutions—

(i) in the House of Representatives—

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

(II) shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules; and

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

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

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

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

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

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

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

SEC. 6. TREATMENT OF CERTAIN TRADE AGREEMENTS FOR WHICH NEGOTIATIONS HAVE ALREADY BEGUN.

(a) CERTAIN AGREEMENTS.—Notwithstanding section 3(b)(2), if an agreement to which section 3(b) applies—

(1) is entered into under the auspices of the World Trade Organization,

(2) is entered into with Chile,

(3) is entered into with Singapore, or

(4) establishes a Free Trade Area for the Americas,

and results from negotiations that were commenced before the date of the enactment of this Act, subsection (b) shall apply.

(b) TREATMENT OF AGREEMENTS.—In the case of any agreement to which subsection (a) applies—

(1) the applicability of the trade authorities procedures to implementing bills shall be determined without regard to the requirements of section 4(a) (relating only to 90 days notice prior to initiating negotiations), and any procedural disapproval resolution under section 5(b)(1)(B) shall not be in order on the basis of a failure or refusal to comply with the provisions of section 4(a); and

(2) the President shall, as soon as feasible after the enactment of this Act—

(A) notify the Congress of the negotiations described in subsection (a), the specific United States objectives in the negotiations, and whether the President is seeking a new agreement or changes to an existing agreement; and

(B) before and after submission of the notice, consult regarding the negotiations with the committees referred to in section 4(a)(2) and the Congressional Oversight Group.

SEC. 7. CONGRESSIONAL OVERSIGHT GROUP.

(a) MEMBERS AND FUNCTIONS.—

(1) IN GENERAL.—By not later than 60 days after the date of the enactment of this Act, and not later than 30 days after the convening of each Congress, the chairman of the Committee on Ways and Means of the House of Representatives and the chairman of the Committee on Finance of the Senate shall convene the Congressional Oversight Group.

(2) MEMBERSHIP FROM THE HOUSE.—In each Congress, the Congressional Oversight Group shall be comprised of the following Members of the House of Representatives:

(A) The chairman and ranking member of the Committee on Ways and Means, and 3 additional members of such Committee (not more than 2 of whom are members of the same political party).

(B) The chairman and ranking member, or their designees, of the committees of the House of Representatives which would have, under the Rules of the House of Representatives, jurisdiction over provisions of law affected by a trade agreement negotiations for which are conducted at any time during that Congress and to which this Act would apply.

(3) MEMBERSHIP FROM THE SENATE.—In each Congress, the Congressional Oversight Group shall also be comprised of the following members of the Senate:

(A) The chairman and ranking Member of the Committee on Finance and 3 additional members of such Committee (not more than 2 of whom are members of the same political party).

(B) The chairman and ranking member, or their designees, of the committees of the Senate which would have, under the Rules of the Senate, jurisdiction over provisions of law affected by a trade agreement negotiations for which are conducted at any time during that Congress and to which this Act would apply.

(4) ACCREDITATION.—Each member of the Congressional Oversight Group described in paragraph (2)(A) and (3)(A) shall be accredited by the United States Trade Representative on behalf of the President as official advisers to the United States delegation in negotiations for any trade agreement to which this Act applies. Each member of the Congressional Oversight Group described in paragraph (2)(B) and (3)(B) shall be accredited by the United States Trade Representative on behalf of the President as official advisers to the United States delegation in the negotiations by reason of which the member is in the Congressional Oversight Group. The Congressional Oversight Group shall consult with and provide advice to the Trade Representative regarding the formulation of specific objectives, negotiating strategies and positions, the development of the applicable trade agreement, and compliance and enforcement of the negotiated commitments under the trade agreement.

(5) CHAIR.—The Congressional Oversight Group shall be chaired by the Chairman of the Committee on Ways and Means of the House of Representatives and the Chairman of the Committee on Finance of the Senate.

(b) GUIDELINES.—

(1) PURPOSE AND REVISION.—The United States Trade Representative, in consultation with the chairmen and ranking minority members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(A) shall, within 120 days after the date of the enactment of this Act, develop written guidelines to facilitate the useful and timely exchange of information between the Trade Representative and the Congressional Oversight Group established under this section; and

(B) may make such revisions to the guidelines as may be necessary from time to time.

(2) CONTENT.—The guidelines developed under paragraph (1) shall provide for, among other things—

(A) regular, detailed briefings of the Congressional Oversight Group regarding negotiating objectives, including the promotion of certain priorities referred to in section 2(c), and positions and the status of the applicable negotiations, beginning as soon as practicable after the Congressional Oversight Group is convened, with more frequent briefings as trade negotiations enter the final stage;

(B) access by members of the Congressional Oversight Group, and staff with proper security clearances, to pertinent documents relating to the negotiations, including classified materials;

(C) the closest practicable coordination between the Trade Representative and the Congressional Oversight Group at all critical periods during the negotiations, including at negotiation sites; and

(D) after the applicable trade agreement is concluded, consultation regarding ongoing compliance and enforcement of negotiated commitments under the trade agreement.

SEC. 8. ADDITIONAL IMPLEMENTATION AND ENFORCEMENT REQUIREMENTS.

(a) IN GENERAL.—At the time the President submits to the Congress the final text of an agreement pursuant to section 5(a)(1)(C), the President shall also submit a plan for implementing and enforcing the agreement. The implementation and enforcement plan shall include the following:

(1) BORDER PERSONNEL REQUIREMENTS.—A description of additional personnel required at border entry points, including a list of additional customs and agricultural inspectors.

(2) AGENCY STAFFING REQUIREMENTS.—A description of additional personnel required by Federal agencies responsible for monitoring and implementing the trade agreement, including personnel required by the Office of the United States Trade Representative, the Department of Commerce, the Department of Agriculture (including additional personnel required to implement sanitary and phytosanitary measures in order to obtain market access for United States exports), the Department of the Treasury, and such other agencies as may be necessary.

(3) CUSTOMS INFRASTRUCTURE REQUIREMENTS.—A description of the additional equipment and facilities needed by the United States Customs Service.

(4) IMPACT ON STATE AND LOCAL GOVERNMENTS.—A description of the impact the trade agreement will have on State and local governments as a result of increases in trade.

(5) COST ANALYSIS.—An analysis of the costs associated with each of the items listed in paragraphs (1) through (4).

(b) BUDGET SUBMISSION.—The President shall include a request for the resources necessary to support the plan described in subsection (a) in the first budget that the President submits to the Congress after the submission of the plan.

SEC. 9. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Title I of the Trade Act of 1974 (19 U.S.C. 2111 et seq.) is amended as follows:

(1) IMPLEMENTING BILL.—

(A) Section 151(b)(1) (19 U.S.C. 2191(b)(1)) is amended by striking "section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988, or section 282 of the Uruguay Round Agreements Act" and inserting "section 282 of the Uruguay Round Agreements Act, or section 5(a)(1) of the Bipartisan Trade Promotion Authority Act of 2001".

(B) Section 151(c)(1) (19 U.S.C. 2191(c)(1)) is amended by striking "or section 282 of the Uruguay Round Agreements Act" and inserting ", section 282 of the Uruguay Round Agreements Act, or section 5(a)(1) of the Bipartisan Trade Promotion Authority Act of 2001".

(2) ADVICE FROM INTERNATIONAL TRADE COMMISSION.—Section 131 (19 U.S.C. 2151) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking "section 123 of this Act or section 1102 (a) or (c) of the Omnibus Trade and Competitiveness Act of 1988," and inserting "section 123 of this Act or section 3 (a) or (b) of the Bipartisan Trade Promotion Authority Act of 2001,"; and

(ii) in paragraph (2), by striking "section 1102 (b) or (c) of the Omnibus Trade and Competitiveness Act of 1988" and inserting "section 3(b) of the Bipartisan Trade Promotion Authority Act of 2001";

(B) in subsection (b), by striking "section 1102(a)(3)(A)" and inserting "section 3(a)(3)(A) of the Bipartisan Trade Promotion Authority Act of 2001"; and

(C) in subsection (c), by striking "section 1102 of the Omnibus Trade and Competitiveness Act of 1988," and inserting "section 3 of the Bipartisan Trade Promotion Authority Act of 2001,".

(3) HEARINGS AND ADVICE.—Sections 132, 133(a), and 134(a) (19 U.S.C. 2152, 2153(a), and 2154(a)) are each amended by striking "section 1102 of the Omnibus Trade and Competitiveness Act of 1988," each place it appears and inserting "section 3 of the Bipartisan Trade Promotion Authority Act of 2001,".

(4) PREREQUISITES FOR OFFERS.—Section 134(b) (19 U.S.C. 2154(b)) is amended by striking "section 1102 of the Omnibus Trade and Competitiveness Act of 1988" and inserting "section 3 of the Bipartisan Trade Promotion Authority Act of 2001".

(5) ADVICE FROM PRIVATE AND PUBLIC SECTORS.—Section 135 (19 U.S.C. 2155) is amended—

(A) in subsection (a)(1)(A), by striking "section 1102 of the Omnibus Trade and Competitiveness Act of 1988" and inserting "section 3 of the Bipartisan Trade Promotion Authority Act of 2001";

(B) in subsection (e)(1)—

(i) by striking "section 1102 of the Omnibus Trade and Competitiveness Act of 1988" each place it appears and inserting "section 3 of the Bipartisan Trade Promotion Authority Act of 2001"; and

(ii) by striking "section 1103(a)(1)(A) of such Act of 1988" and inserting "section 5(a)(1)(A) of the Bipartisan Trade Promotion Authority Act of 2001"; and

(C) in subsection (e)(2), by striking "section 1101 of the Omnibus Trade and Competitiveness Act of 1988" and inserting "section 2 of the Bipartisan Trade Promotion Authority Act of 2001".

(6) TRANSMISSION OF AGREEMENTS TO CONGRESS.—Section 162(a) (19 U.S.C. 2212(a)) is amended by striking "or under section 1102 of the Omnibus Trade and Competitiveness Act of 1988" and inserting "or under section 3 of the Bipartisan Trade Promotion Authority Act of 2001".

(b) APPLICATION OF CERTAIN PROVISIONS.—For purposes of applying sections 125, 126, and 127 of the Trade Act of 1974 (19 U.S.C. 2135, 2136(a), and 2137)—

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

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

SEC. 10. DEFINITIONS.

In this Act:

(1) AGREEMENT ON AGRICULTURE.—The term "Agreement on Agriculture" means the agreement referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

(2) CORE LABOR STANDARDS.—The term "core labor standards" means—

(A) the right of association;

(B) the right to organize and bargain collectively;

(C) a prohibition on the use of any form of forced or compulsory labor;

(D) a minimum age for the employment of children; and

(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

(3) GATT 1994.—The term "GATT 1994" has the meaning given that term in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

(4) ILO.—The term "ILO" means the International Labor Organization.

(5) UNITED STATES PERSON.—The term "United States person" means—

(A) a United States citizen;

(B) a partnership, corporation, or other legal entity organized under the laws of the United States; and

(C) a partnership, corporation, or other legal entity that is organized under the laws of a foreign country and is controlled by entities described in subparagraph (B) or United States citizens, or both.

(6) URUGUAY ROUND AGREEMENTS.—The term "Uruguay Round Agreements" has the meaning given that term in section 2(7) of the Uruguay Round Agreements Act (19 U.S.C. 3501(7)).

(7) WORLD TRADE ORGANIZATION; WTO.—The terms "World Trade Organization" and "WTO" mean the organization established pursuant to the WTO Agreement.

(8) WTO AGREEMENT.—The term "WTO Agreement" means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

I. INTRODUCTION

A. PURPOSE AND SUMMARY

H.R. 3005, as amended by the Committee, would establish special provisions for the consideration of legislation to implement trade agreements. These special procedures, which were first enacted in 1974, have expired with respect to agreements entered into after April 15, 1994. The purpose of this special approval process, previously called "fast track," has been to preserve the constitutional role and to fulfill the legislative responsibility of Congress with respect to trade agreements. At the same time, the process ensures certain and expeditious action on the results of the negotiations and on the implementing bill, with no amendments.

H.R. 3005, as amended, would put in place special procedures for implementing trade agreements entered into before June 1, 2005, with the opportunity for an extension to cover agreements entered into before June 1, 2007. These procedures are similar to the expired provisions, with modifications to expand and broaden consultation with Congress.

B. BACKGROUND AND NEED FOR LEGISLATION

Certain trade agreements cannot enter into force as a matter of U.S. law unless implementing legislation making any changes to U.S. law to implement U.S. rights and obligations under the agreement is enacted into law. Certain procedures, previously referred to as "fast track" and now referred to as "trade promotion authority," were first authorized in the Trade Act of 1974 in order to implement trade agreements. These procedures were first used with respect to the GATT Tokyo Round Agreements, which were approved and implemented in the Trade Agreements Act of 1979. The expedited procedures for the implementation of multilateral trade agreements have not been significantly altered since 1974 but were expanded in 1984 to apply to bilateral agreements. Extended through section 1102(c) of the Omnibus Trade and Competitiveness Act of 1988, and modified to authorize the President to enter into bilateral trade agreements, these procedures were most recently used to implement the Uruguay Round Agreements of the World Trade Organization (WTO) and the North American Free Trade Agreement (NAFTA). That negotiating authority, as extended in 1991 and 1993, applied only with respect to agreements entered into before April 15, 1994.

These special procedures required the President, before entering into any trade agreement, to consult with Congress and to provide Congress advance notice of his intent to enter into an agreement. After entering into the agreement, the President was required to submit the draft agreement, implementing legislation, and a statement of administrative action. The President also consulted with Congressional committees of jurisdiction on the content of the implementing bill. Amendments to the legislation were not permitted once the bill was introduced; the committee and floor actions consisted of "up or down" votes on the bill as introduced.

The Committee believes that trade promotion authority has been a highly effective tool in securing a wide range of important, market-opening trade agreements for the United States. Because of these agreements, the Committee believes that the United States has been able to make substantial progress in opening markets, lowering tariffs, and reducing and ending non-tariff barriers to trade. These agreements are extremely beneficial in creating much-needed jobs, stimulating the economy, and raising the standard of living for American families. Without trade promotion authority in place since 1994, however, the United States has concluded only one small free trade agreement (FTA), while its competitors have continued to put in place trade agreements that disadvantage U.S. businesses, workers, and farmers. Of the 134 free trade agreements negotiated under the GATT/WTO, the United States is party to only three—the U.S.-Israel Free Trade Agreement, the NAFTA, and the U.S.-Jordan Free Trade Agreement. Europe, for its part, has in force FTAs with 27 countries and is now moving into Latin America. Since 1994, Canada (the largest market for U.S. exports) has negotiated FTAs with Chile, Costa Rica, and Israel, and is conducting preliminary talks with Japan, Singapore, Guatemala, Honduras, and Nicaragua. Likewise, Mexico (the second largest market for U.S. exports) has trade agreements with 31 countries and is now in talks with Japan, Korea, and others. The WTO predicts that by 2005 there will be more than 250 FTAs. The Committee is concerned that if the United States does not have trade promotion authority, it will be left further behind as its competitors negotiate preferential access in their best interests.

The Committee believes that the only way that the United States can negotiate these beneficial agreements is through the well-proven tool of trade promotion authority because it ensures certain and expeditious consideration of trade legislation while giving Congress a strong role to play during negotiation and implementation of trade agreements. In addition, trade promotion authority gives U.S. trading partners confidence that an agreement agreed to by the United States will not be reopened during the implementing process. Accordingly, H.R. 3005, as amended, would extend many of the provisions of the 1988 Act to future agreements, although making a number of improvements, particularly in the area of Congressional consultation.

The Committee strongly believes that passage of this legislation is squarely in the national economic and security interest of the United States. Granting President Bush Trade Promotion Authority will send a strong signal that the United States does not intend to revert to isolationism. The Committee views TPA as a key ele-

ment of a broader legislative strategy aimed at building confidence in American economic leadership and avoiding a global recession.

C. LEGISLATIVE HISTORY

H.R. 2149, the Trade Promotion Authority Act of 2001, was introduced on June 13, 2001, by Congressman Crane, on behalf of himself, and 62 other House Members. H.R. 3005, the Bipartisan Trade Promotion Authority Act of 2001, was introduced on October 3, 2001, by Chairman Thomas, on behalf of himself and Congressmen Crane, Dreier, Jefferson, Tanner, and Dooley. The bill was referred to the Committee on Ways and Means and, in addition, to the Committee on Rules.

On October 5 and October 9, the Committee on Ways and Means met to consider H.R. 3005. At that time, Chairman Thomas offered an amendment in the nature of a substitute, which was agreed to by voice vote. The Committee also agreed to, by unanimous consent, an amendment offered by Mr. Cardin concerning anti-corruption. Mr. Rangel offered an amendment in the nature of a substitute, which was defeated by a record vote of 12 yeas, 26 nays, and 1 pass. Mr. Doggett and Mr. McDermott offered an amendment concerning investment issues and procedures to remove trade promotion authority, which was defeated by voice vote. The Committee then ordered the bill favorably reported, as amended, by a record vote of 26 yeas to 13 nays.

II. EXPLANATION OF THE BILL

1. SECTION 1: SHORT TITLE AND FINDINGS

Explanation of provision

The short title of the bill is the "Bipartisan Trade Promotion Authority Act of 2001." The legislation states that Congress finds the expansion of international trade is vital to U.S. national security and economic growth, as well as U.S. leadership.

2. SECTION 2 (a) AND (b): TRADE NEGOTIATING OBJECTIVES

Present/expired law

Section 1101(a) of the Omnibus Trade and Competitiveness Act of 1988 (the 1988 Act) set forth overall negotiating objectives for concluding trade agreements. These objectives were to obtain more open, equitable, and reciprocal market access, the reduction or elimination of barriers and other trade-distorting policies and practices, and a more effective system of international trading disciplines and procedures. Section 1102(b) set forth the following principal trade negotiating objectives: dispute settlement, transparency, developing countries, current account surpluses, trade and monetary coordination, agriculture, unfair trade practices, trade in services, intellectual property, foreign direct investment, safeguards, specific barriers, worker rights, access to high technology, and border taxes.

Explanation of provision

Section 2 would establish the following overall negotiating objectives: obtaining more open, equitable, and reciprocal market access; obtaining the reduction or elimination of barriers and other trade-

distorting policies and practices; further strengthening the system of international trading disciplines and procedures, including dispute settlement; fostering economic growth and full employment in the U.S. and the global economy; ensuring that trade and environmental policies are mutually supportive and seeking to protect and preserve the environment and enhance the international means of doing so, while optimizing the use of the world's resources; and to promote respect for worker rights and the rights of children consistent with International Labor Organization core labor standards, as defined in the bill.

In addition, section 2 would establish the principal trade negotiating objectives for concluding trade agreements, as follows:

Trade barriers and distortions:

—expanding competitive market opportunities for U.S. exports and obtaining fairer and more open conditions of trade by reducing or eliminating tariff and nontariff barriers and policies and practices of foreign governments directly related to trade that decrease market opportunities for U.S. exports and distort U.S. trade; and

—obtaining reciprocal tariff and nontariff barrier elimination agreements, with particular attention to products covered in section 111(b) of the Uruguay Round Agreements Act.

Services: to reduce or eliminate barriers to international trade in services, including regulatory and other barriers, that deny national treatment or unreasonably restrict the establishment or operations of services suppliers.

Foreign investment: to reduce or eliminate artificial or trade-distorting barriers to trade-related foreign investment by—

—reducing or eliminating exceptions to the principle of national treatment;

—freeing the transfer of funds relating to investments;

—reducing or eliminating performance requirements, forced technology transfers, and other unreasonable barriers to the establishment and operation of investments;

—seeking to establish standards for expropriation and compensation for expropriation, consistent with United States legal principles and practice;

—providing meaningful procedures for resolving investment disputes including between an investor and a government; and

—seeking to improve mechanisms used to resolve disputes between an investor and a government through mechanisms to eliminate frivolous claims, procedures to ensure the efficient selection of arbitrators and the expeditious disposition of claims, and procedures to increase transparency in investment disputes.

Intellectual property: including:

—promoting adequate and effective protection of intellectual property rights through ensuring accelerated and full implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights, including strong enforcement;

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

—ensuring that standards of protection and enforcement keep pace with technological developments, and in particular

ensuring that right holders have the legal and technological means to control the use of their works through the internet and other global communication media.

Transparency: to increase public access to information regarding trade issues as well as the activities of international trade institutions; to increase openness in international trade fora, including the WTO, by increasing public access to appropriate meetings, proceedings, and submissions, including with regard to dispute settlement and investment; and to increase timely public access to notifications made by WTO member states and the supporting documents.

Anti-corruption: to obtain high standards and appropriate enforcement mechanisms applicable to persons from all countries participating in a trade agreement that prohibit attempts to influence acts, decisions, or omissions of foreign government; and to ensure that such standards do not place U.S. persons at a competitive disadvantage in international trade.

Improvement of the WTO and multilateral trade agreements: to achieve full implementation and extend the coverage of the WTO and such agreements to products, sectors, and conditions of trade not adequately covered; and to expand country participation in and enhancement of the Information Technology Agreement (ITA) and other trade agreements.

Regulatory practices: to achieve increased transparency and opportunity for the participation of affected parties in the development of regulations; to require that proposed regulations be based on sound science, cost-benefit analysis, risk assessment, or other objective evidence; to establish consultative mechanisms among parties to trade agreements to promote increased transparency in developing guidelines, rules, regulations, and laws for government procurement and other regulatory regimes; and to achieve the elimination of government measures such as price controls and reference pricing which deny full market access for United States products.

Electronic commerce: to ensure that current obligations, rules, disciplines, and commitments under the WTO apply to electronic commerce; to ensure that electronically delivered goods and services receive no less favorable treatment under trade rules and commitments than like products delivered in physical form; and the classification of such goods and services ensures the most liberal trade treatment possible; to ensure that governments refrain from implementing trade-related measures that impede electronic commerce; where legitimate policy objectives require domestic regulations that affect electronic commerce, to obtain commitments that any such regulations are the least restrictive on trade, nondiscriminatory, and transparent, and promote an open market environment; and to extend the moratorium of the WTO on duties on electronic transmissions.

Agriculture: to ensure that the U.S. trade negotiators duly recognize the importance of agricultural issues; to obtain competitive market opportunities for U.S. exports in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in U.S. markets and to achieve fairer and more open conditions of trade; to reduce or eliminate trade distorting subsidies; to impose disciplines on the operations of state-trading enterprises or

similar administrative mechanisms; to eliminate unjustified restrictions on products derived from biotechnology; to eliminate sanitary or phytosanitary restrictions that contravene the Uruguay Round Agreement as they are not based on scientific principles and to improve import relief mechanisms to accommodate the unique aspects of perishable and cyclical agriculture.

Labor and the environment: to ensure that a party does not fail to effectively enforce its environmental or labor laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the United States and that party; to recognize that a party to a trade agreement is effectively enforcing its laws if a course of inaction or inaction reflects a reasonable exercise of discretion or results from a bona fide decision regarding allocation of resources; to strengthen the capacity of U.S. trading partners to promote respect for core labor standards and to protect the environment through the promotion of sustainable development; to reduce or eliminate government practices or policies that unduly threaten sustainable development; to seek market access for U.S. environmental technologies, goods, and services; and to ensure that labor, environmental, health, or safety policies and practices of parties to trade agreements do not arbitrarily or unjustifiably discriminate against U.S. exports or serve as disguised barriers to trade.

Dispute settlement and enforcement: to seek provisions in trade agreements providing for resolution of disputes between governments in an effective, timely, transparent, equitable, and reasoned manner requiring determinations based on facts and the principles of the agreement, with the goal of increasing compliance; seek to strengthen the capacity of the WTO Trade Policy Review Mechanism to review compliance; seek provisions encouraging the early identification and settlement of disputes through consultations; seek provisions encouraging trade-expanding compensation; seek provisions to impose a penalty that encourages compliance, is appropriate to the parties, nature, subject matter, and scope of the violation, and has the aim of not adversely affecting parties or interests not party to the dispute while maintaining the effectiveness of the enforcement mechanism; and seek provisions that treat U.S. principal negotiating objectives equally with respect to ability to resort to dispute settlement and availability of equivalent procedures and remedies.

Extended WTO negotiations: concerning extended WTO negotiations on financial services, civil aircraft, and rules of origin.

Reason for change

The Committee believes that the overall negotiating objectives balance the need to open markets and strengthen the international trading system with ensuring that trade and environment policies are mutually supportive and promoting respect for core labor rights, all with the goal of fostering economic growth and full employment in the global economic system.

In the list of primary negotiating objectives in H.R. 3005, as amended, the Committee intends to update and broaden objectives from the 1988 Act.

Trade barriers and distortions: The language in the first negotiating objective covers any tariff or non-tariff barrier as well as any policy or practice that is directly related to trade, regardless of

whether the barrier is imposed at the foreign border or at some other point. Moreover, H.R. 3005, as amended, addresses policies and practices, not merely a law "on its face." This includes a policy or practice that has the *de facto* effect of impeding U.S. imports or exports, not whether the law is only a *de jure* barrier. In addition, the concept "policy or practice" covers barriers imposed under, for example, a regulatory, administrative, adjudicatory, and investigatory exercise of any level of foreign government authority, and is not limited to statutory barriers. Finally, it is the Committee's intention that the phrase "to obtain fairer and more open conditions of trade by reducing or eliminating tariff and nontariff barriers" applies to barriers imposed by foreign governments at the border as well as internal barriers, if any.

In section 2(b)(1)(B), the Committee intends that the Administration continue to seek, on a priority basis, the elimination of duties on a reciprocal basis for products covered in section 111(b) of the Uruguay Round Agreements Act, as described in page 45 of the Statement of Administrative Action accompanying that Act. Although the President was successful in obtaining the reciprocal elimination of duties for a number of products contained in that list as part of the Information Technology Agreement negotiated under the auspices of the WTO, there are a number of products on the list for which zero-for-zero agreements have not been reached. It is the Committee's intention that the Administration pay particular attention to the elimination of tariffs on these products, which could result in substantial benefits to U.S. industry and its workers. For many of these products, U.S. producers remain at a significant competitive disadvantage while foreign suppliers are able to expand capacity behind high tariff walls.

In other sectors, tariff inequities are aggravated by tariff escalation, which occurs when a country establishes low or zero tariffs for raw materials but maintains relatively high tariffs for processed products. The Committee intends that the Administration continue to pursue ending such practices for the sectors covered by the proclamation authority provided in section 111(b) of the Uruguay Round Agreements Act.

The Committee wishes to emphasize that the overall negotiating objectives to obtain more open, equitable, and reciprocal market access and to reduce distortions that decrease market opportunities for United States exports and otherwise distort trade are increasingly important for the domestic textile and apparel industry as these sensitive products are removed from quota limitations and integrated into normal WTO rules.

The WTO agreement addresses many problems facing the United States textile and apparel industry. Article 5 of the WTO Agreement on Textiles and Clothing (ATC) recognizes that circumvention of quotas frustrate the implementation of the Agreement, and calls on all WTO Members to cooperate fully in addressing problems arising from transshipment, false declaration of country of origin, rerouting, use of fraudulent visas, and other means. Article 7 of the ATC requires WTO members to take all necessary action to abide by GATT rules and disciplines to achieve certain objectives, including improved access to their markets, for example by reducing and binding tariffs, reducing or eliminating non-tariff barriers, and facilitating customs, administrative, and licensing formalities. Any

WTO member that considers that another member has not taken such action may bring a complaint before there the relevant WTO body, as provided in Article 7, or before the Textile Monitoring Body.

The Committee expresses strong concern that commitments by the Administration in the Statement of Administrative Action accompanying the Uruguay Round Trade Agreements Act to pursue enforcement of the ATC with respect to high tariff and non-tariff barriers to United States exports of textile and apparel products have not been fulfilled in any way. Major textile and clothing exporting countries fail to adhere to the provisions of existing agreements discussed above. Average tariff rates on textiles and apparel in major exporting countries such as India, Indonesia, Thailand, Malaysia, and Brazil continue to be significantly higher than United States tariffs on these products. USTR has not actively pursued negotiations to implement the market access commitments made in the Uruguay Round Agreement.

Therefore, the negotiating objectives of opening markets and reducing distortions in the bill with respect to textiles and apparel, is to obtain competitive opportunities for United States exports of these products in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports of textiles and apparel in the United States by: (1) reducing tariffs on textiles and apparel in major textile and apparel exporting countries to the same as or lower than those in the United States and; (2) reducing or eliminating subsidies that decrease market opportunities for U.S. exports of textiles and apparel or unfairly distort trade; and (3) ensuring that countries that are members of the WTO implement immediately all their obligations to provide effective market access for U.S. exports of textiles and apparel.

Finally, in developing negotiating objective for future bilateral trade agreements and for the Free Trade Area of the Americas, the Committee urges the Administration to take into account the impact that: (1) all trade agreements covering textiles and apparel to which the U.S. is a party, including the North American Free Trade Agreement, have had on the U.S. industry; and (2) preferential tariff programs such as the Caribbean Basin Trade Partnership Act and the Africa Growth and Opportunity Act have had on the industry.

Services: The Committee notes that U.S. services exports are approaching $300 billion annually. Many markets for U.S. services are vast and essentially untapped. As income in foreign countries grows, their imports of U.S. services tend to rise disproportionately. Thus, negotiations that reduce barriers to all modes of supply of services could lead to a major expansion of U.S. services exports, resulting in a significant improvement in the U.S. balance of payments account.

Not only do certain sectors, such as telecommunications, express delivery, financial, energy and information services, play a key role in a country's infrastructure, but U.S. manufacturers also benefit from efficient services used to support production, such as product design and engineering, marketing and distribution, outsourcing, and globalized logistics strategies. Accordingly, the Committee wishes to improve access for all aspects of U.S. services providers.

In bilateral and multilateral trade agreements, the Committee believes it is important to: (1) achieve maximum liberalization of trade in all modes of supply, including cross border supply of services and movement of natural persons, across the widest possible range of services; (2) provide rights of establishment with majority ownership and national treatment for companies operating in foreign markets; (3) allow investors to establish in whatever corporate form is most appropriate to their business objectives; (4) grandfather existing liberalization commitments; (5) create a free and open commercial environment for the development of electronic commerce; (6) ensure that market access commitments apply no matter what technology is used to deliver the service; (7) promote domestic regulatory reform, with the objective of committing governments to avoid discrimination against foreign service suppliers in their current and future regulations; (8) promote transparency of regulatory processes, including rule-making, granting of licenses, setting of standards, and judicial and arbitral proceedings; (9) challenge both the desirability and the feasibility of a services safeguard regime, especially in light of the impact of such a provision on the climate for foreign direct investment; and (10) explicitly acknowledge the importance of maintaining free flows of financial and other information that is necessary for the operation of global business.

The Committee believes that the liberalization of services in the FTAA must exceed what has already been achieved in the WTO General Agreement on Trade in Services (GATS). The premise of such an agreement should be, in fact, free trade in goods and services throughout the region with minimal exceptions or limitations. The Committee views the FTAA as an excellent opportunity to create one general framework for trade in services among the 34 participating economies.

With regard to bilateral free trade agreements (FTAs), such as those currently in progress with Chile and Singapore, the Committee believes that the United States should be as bold as possible in pursuing complete liberalization across a wide range of sectors. The "Top Down" approach (*i.e.,* negotiating modality) is the best way to achieve this liberalization for most sectors, and it should be refined as necessary to meet the needs of specific sectors. In other words, the Committee believes that U.S. negotiators should push countries to schedule complete liberalization with a list of exceptions where necessary. This contrasts with the complex and cumbersome "positive list" approach that is the basis of the GATS structure.

In the WTO, the services negotiations, along with agriculture, are unfolding pursuant to the built-in agenda established by the Uruguay Round. Unfortunately, the GATS lacks substantive commitments in many areas, and the Committee believes a new round must be effective in increasing substantive liberalization commitments across the wide range of services where the United States is competitive. In addition to the "request and offer" approach pursued in the Uruguay Round, which can be cumbersome and slow for services, the Committee is supportive of the use of other more efficient negotiating techniques and strategies. The Committee urges negotiators to explore the development of negotiating tech-

niques such as model schedules, horizontal approaches, and clusters.

Foreign investment: Companies investing abroad do so to get closer to their markets, acquire new technologies, form strategic alliances, and enhance competitiveness by integrating production and distribution. Foreign investment is increasingly crucial to the ability of U.S. companies to export, and to the international competitiveness of U.S. companies. The Committee believes that because trade and investment flows are interdependent, rules protecting United States investment abroad must be rigorous and enforceable.

The United States has long been the champion of international investment rules because U.S. investors have more capital at risk than investors from any other country, and thus have the most to gain from effective mechanisms for enforcing investor protections. While foreign investors are afforded strong protections through the U.S. Constitution, U.S. laws, and the U.S. court system—with or without an investment agreement—U.S. investors abroad are often consigned to foreign laws that may not reflect U.S. or international legal standards and local courts that may be corrupt or do not provide impartial adjudication.

Therefore, the Committee intends U.S. negotiators to continue to fight for the recognition of the international rule of law and respect for international dispute resolution bodies. Future trade agreements should guarantee the free movement of capital, prohibit performance requirements such as local content and export performance requirements, and include, in bilateral and regional agreements, a mechanism to allow investors to arbitrate investment disputes with host governments and obtain relief for damages resulting from violations of the agreement.

The Committee recognizes that the investor-state dispute settlement mechanism is a valuable component of investment agreements in order to allow U.S. investors access to the rule of law and procedures that would be available in the United States but also acknowledges that important improvements should be added to these traditional procedures. Accordingly, the Committee includes measures that ensure that a number of safeguards be included in an investor-state dispute settlement regime. Specifically, the Committee intends U.S. negotiators to seek to: (1) develop new mechanisms to eliminate frivolous claims; (2) ensure the efficient selection of arbitrators and the expeditious disposition of claims and procedures; and (3) increase transparency in investment disputes by, for example, ensuring that briefs and arbitration proceedings are open to public view. An amicus procedure might also be developed whereby interested members of the public could express their views on issues before the tribunals.

Intellectual property: Piracy and counterfeiting rates in much of the world remain alarmingly high. The advent of the Internet, along with the rapid globalization of the world economy, mean that piracy, counterfeiting and other economic crimes are, to an increasing extent, global problems. U.S. industries based on copyright, patent, trademark and other forms of intellectual property rights are among the fastest growing and most productive of all sectors of the U.S. economy. To enable these export-oriented industries to prosper, it is essential that the United States work together with

governments throughout the world to prevent, punish, and ultimately deter these violations.

It is critical that the previously agreed-to obligations regarding protection and enforcement embodied in the WTO Trade-Related Intellectual Property Rights (TRIPS) Agreement are effectively, fully, and immediately implemented. The enforcement obligations of the TRIPS Agreement are particularly important. Although, substantive levels of intellectual property protection have increased significantly around the world in recent years (due in great part both to U.S. trade law initiatives and enhanced WTO disciplines), many countries continue to inadequately enforce intellectual property rights. Without effective enforcement, the full benefits of the TRIPS Agreement cannot be realized.

Achieving full implementation of TRIPS should be a top multilateral priority of U.S. Executive Branch agencies charged with trade policy responsibilities. For this reason, among others, this Committee does not believe that it is necessary or advisable at this time to undertake to amend or improve the TRIPS agreement in any new WTO negotiating round. TRIPS implementation will require the full attention and strenuous efforts of U.S. trade policy officials and their counterparts; any negotiation of new intellectual property standards in the WTO would threaten this goal.

Another important objective is to ensure that standards of protection and enforcement keep pace with rapid technological developments. For example, the Executive Branch should encourage countries to ratify and implement the World Intellectual Property Organization's (WIPO) Copyright Treaty and the WIPO Performances and Phonograms Treaty, which reflect enhanced global minimum standards of protection and enforcement for the networked digital environment.

Section 2(b)(4) reflects the view of this Committee that strong intellectual property rights protection should be accompanied by provisions on liability that are consistent with U.S. law, including the Digital Millennium Copyright Act, and that provide limitations on the scope of remedies available against service providers for copyright infringements they do not control, initiate or direct, and that take place through systems or networks, controlled or operated by them or on their behalf. Such limitations also must create legal incentives for service providers to cooperate with copyright owners in deterring the unauthorized storage, and transmission of copyrighted materials.

Finally, U.S. intellectual property industries based on intellectual property continue to suffer from unnecessary and discriminatory market access barriers around the globe. U.S. negotiators must remain vigilant and excise these barriers since they stunt the growth of otherwise highly productive industries.

Transparency: The Committee observes that while the WTO and other international trade fora have improved the level of transparency in trade negotiations, there remains some lack of information to the public concerning their operations and the decisions that they make. The Committee believes that enhancing the level of transparency at multilateral, plurilateral, and bilateral institutions would have twofold benefits. First, it would help U.S. citizens and the citizens of other countries to have more confidence in the operation of international trade institutions and the fairness of dis-

pute settlement decisions. Second, increased transparency and the flow of information from international trade institutions would help U.S. exporters to be better informed as to U.S. rights under international trade rules and would improve compliance with trade agreements.

Concerning access to appropriate meetings and documentation, the Committee believes that the public has an important stake in trade decisions, including those involving dispute settlement and investment. Since openness will help to ensure fairness, it is crucial to allow the public to observe meetings and obtain documents, whenever possible. Further, the Committee believes that it is important that the documents are available as soon as practicable, so that the public has access to current information. As an additional means of increasing public access to dispute settlement proceedings, U.S. negotiators should, among other things, pursue building consensus for establishing rules allowing for submission of *amicus curiae* briefs to panels and the Appellate Body of the WTO.

Finally, the Committee has a special concern that interested persons have timely access to notifications and related documents submitted by WTO members. The Committee believes that it is insufficient for persons to have access to notifications alone; they must also have access to the supporting documentation, wherever possible, in order to evaluate the assertions and policy decisions contained in the notifications. One example of particular concern to the Committee is the series of notifications made by the EU to the WTO in the area of agriculture subsidies. The Committee wants to assure that U.S. entities, which must compete with EU-subsidized agriculture, have access to information so they can determine whether U.S. rights under the agreement are being violated.

Anti-corruption: The Committee believes that reduction of corruption in international trade is fundamental to the expansion of free and fair trade around the world. Trade is a vital force for economic development, democratization, social freedom, and political stability in countries struggling to achieve these objectives. Corruption involving the use of money and other things of value to influence acts, decisions, or omissions of foreign government officials or to secure any improper advantage in a manner affecting trade undermines the objectives of trade promotion authority legislation.

The Committee intends that obtaining high anti-corruption standards should be a principal negotiating objective for the Trade Representative in future TPA trade negotiations. It is the Committee's view that high standards are those that are equivalent to those established under section 30A of the Securities and Exchanges Act of 1934 and sections 104 and 104A of the Foreign Corrupt Practices Act of 1977. Only standards equivalent to these will ensure that United States persons, who are bound by the Foreign Corrupt Practices Act, are not placed at a competitive disadvantage in international trade.

WTO agreements: The Committee puts a high priority on the effective implementation of agreements concluded under WTO auspices—including agreements achieved in the Uruguay Round and subsequently in areas such as Basic Telecommunications, Financial Services, and Information Technology.

The ITA, which eliminates tariffs on a wide range of products essential to the new economy, was concluded at the WTO's first Min-

isterial Conference at Singapore in December 1996. As of this writing, the ITA has 55 participants representing over 95 percent of trade in the $600 billion-plus global market for information technology products. Through its work identifying standards, non-tariff measures, and possibilities for expansion of product coverage, the WTO Committee of ITA participants has demonstrated how the WTO can provide dynamic mechanisms for trade liberalization that are responsive to the ever-changing nature of sectors such as the information technology sector. Unfortunately, several countries in Latin America have shown reluctance in the past to joining the ITA. It is the Committee's expectation that the FTAA negotiations offer a strong opportunity to expand both the country participation and the product coverage of this important agreement.

There has been an ongoing debate about the issue of implementation among WTO members, some aspects of which threaten the integrity of the WTO system and existing agreements. For example, with the completion of the transition periods provided to developing country members to phase in adherence to WTO rules in the areas of trade-related intellectual property rights, trade-related investment measures, and customs valuation, some of these countries have now started to call into question the "reasonableness" of obligations imposed by the Agreements and have sought to "rebalance" those obligations. It should go without saying that the Committee views these requests to renege on past WTO commitments as lacking in respect for international obligations and the good faith necessary to support an effective trading system.

With respect to the Agreement on Government Procurement, the Committee intends for the United States to seek to expand the membership of the WTO Agreement on Government Procurement; seek conclusion of a WTO Agreement on Transparency in Government Procurement; and promote global use of electronic publication of procurement information, including notices of procurement opportunities. In addition, the Committee intends for the United States to seek commitments ensuring access to foreign government procurement markets through regional and bilateral free trade agreements, including the Free Trade Area of the Americas (FTAA).

Bilateral and regional trade agreements often rely on preferential rules of origin to determine whether a good can qualify for duty-free treatment. In the area of information technology (IT) products, the Committee intends that the Administration take full account of the global nature of the IT industry in the development and application of preferential origin rules. The Committee intends that the Administration eliminate the need to apply preferential origin rules to IT products to the maximum extent possible. This can be accomplished by including adherence to the Information Technology Agreement (ITA) as a baseline for commitments in bilateral or regional trade agreements. The Committee also believes the Administration should make preferential origin rules administrable and trade facilitative in any case. Such rules should foster administrative ease and market access to the maximum extent possible. To this end, the Administration should seek rules that: avoid value-content thresholds, avoid process-based rules and confer origin based on classification changes. The Committee also believes the Administration should seek to harmonize preferential origin rules

across trade arrangements. To the extent preferential rules are administrable and trade facilitative, they should be applied uniformly across the FTAA and all other preferential trade agreements. Rules that vary by trade arrangement create operational disruption, administrative burdens, and trade impediments.

Regulatory practices: "Regulatory reform" has been given great attention by a number of U.S. industry groups in approaching new trade negotiations. There is an increasing recognition across the spectrum of U.S. industry that legally binding commitments to remove or lower trade barriers can be nullified by decisions, either of national and regional governments or industry standard setting and accrediting bodies, that are taken as part of regulatory processes. It has also become clear to the Committee that regulatory reform encompasses two important prongs: transparency and the need to ensure that regulations are fair and that they are applied without regard to the nationality of the industry or company affected by them.

While in the United States government processes that take place in the "sunshine" are taken for granted, this is not the case in many other countries. Thus the Committee strongly urges USTR to pursue strenuously the negotiation of crosscutting transparency disciplines, particularly in the areas of services, e-commerce, and government procurement

The realization of the negotiating objectives relating to regulations may require the negotiation of special rules that meet the needs of specific sectors for transparency and fair regulatory systems. In addition, consultative mechanisms are needed to promote increased transparency in the development of guidelines, rules, regulations, and laws for government procurement and other regulatory regimes. The Committee's strong view is that transparent and fair regulatory systems are essential to the continued economic development of U.S. trading partners around the world.

Electronic commerce: Disciplines important to e-commerce are more cross-cutting in nature than other sectors, and thus other negotiating objectives described elsewhere in this section are relevant to e-commerce, such as services, investment, intellectual property, transparency, and regulatory practices. A critical negotiating objective of the United States must be to ensure that current WTO obligations, rules, disciplines, and commitments—namely the GATT, GATS and TRIPs agreements—apply to this new mode of business, which the Committee views as critical to U.S. international competitiveness.

The Committee intends that United States negotiators work to: (1) ensure electronically delivered goods and services receive no less favorable treatment under trade rules and commitments than similar products or services delivered by another means; (2) ensure that the classification of such goods and services represents the most liberal treatment possible; (3) ensure that governments refrain from implementing measures that impede electronic commerce; (4) obtain commitments from U.S. trading partners that where legitimate policy objectives require domestic regulations that affect electronic commerce, that their regulations will be least trade-restrictive, nondiscriminatory, transparent as possible; (5) achieve the extension of the moratorium on duties on electronic transmissions; (6) remove tariff and non-tariff barriers that impede

trade in the hardware and the software used to deploy, market and access the e-commerce infrastructure, as well as the goods and services that are traded electronically thereon; (7) achieve full market access and national treatment commitments for services that provide the infrastructure for the internet and electronic commerce (*e.g.,* telecommunication, computer, advertising, financial, distribution, and express delivery services) as well as services delivered electronically; (8) expand and deepen basic and value-added telecommunications commitments, including the Reference Paper commitments for basic telecommunications services; and (9) deter attempts to apply basic telecommunications regulations to competitive value-added, Internet Service Providers (ISP), and other Internet-related services.

The U.S.-Jordan Free Trade Agreement represents an important step forward in achieving the objectives on e-commerce described in the bill and in this report. Currently, WTO members only have a political commitment in the form of the moratorium of duties on e-commerce. In the FTA, however, Jordan legally bound itself to seek to impose no customs duties on electronic transmissions and also agreed to seek to not impose unnecessary regulation on electronic commerce and not to put in place unnecessary barriers to market access for digitized products (such as software, video, and music). Jordan also committed to seek to refrain from impeding the ability of U.S. providers to deliver services through electronic means.

Jordan made market access and national treatment commitments in all sectors critical to completing an electronic transaction including telecommunications, computer-related services, financial services, distribution services, and express delivery services. Finally, the Jordan FTA includes commitments for the protection of intellectual property, going beyond TRIPs, that address the significant problem of piracy faced by all content providers. Jordan's "TRIPs plus" commitments include: adherence to the provisions of the World Intellectual Property Organization (WIPO) Digital Treaties which include important protections for copyrighted works in a digital network environment, including the exclusive right of creators to make their creative works available online, using the Digital Millennium Copyright Act (DMCA) as a model; critical parallel import protection; and strong guarantees on enforcement. Consistent with this Act's major negotiating objective on e-commerce, the Jordan agreement will help ensure that, where legitimate policy objectives require domestic regulation that affects commerce, such regulations will be the least restrictive on trade, non-discriminatory, and transparent, while promoting an open market environment. Thus, the Committee's view is that the Jordan FTA is illustrative of state of the art accomplishments that can be achieved as the United States moves forward with bilateral trade agreements with Chile, Singapore, and with regional agreements such as the FTAA. This in turn will lay the groundwork for future efforts in developing effective WTO disciplines multilaterally in all these important areas.

Agriculture: With respect to the negotiating objective relating to reciprocal trade in agriculture, the Committee intends that the United States obtain a level playing field throughout the world for agriculture products, both for U.S. exporters seeking market access abroad as well as for U.S. products that are import-sensitive. The

Committee acknowledges that trade in agriculture is a critical issue in all trade negotiations: bilateral, regional, or multilateral. Thus, the Committee has set forth specific objectives, recognizing the need to open markets for U.S. agricultural exports while taking into account the situation of the import-sensitive portion of the U.S. agriculture sector.

The Committee believes that U.S. negotiators should seek to accomplish the objectives set forth in section 2(b)(6), including reducing or eliminating foreign tariffs and subsidies and, in addition, eliminating practices that decrease U.S. market access or distort U.S. or foreign markets, including the monopoly status of state trading enterprises; unjustified trade restrictions or commercial requirements affecting new technologies, including biotechnology; unjustified sanitary or phytosanitary measures not based on scientific principles in contravention of WTO standards; other unjustified barriers to trade; and trade-restrictive rules in the administration of tariff rate quotas. The Committee also believes that U.S. trade negotiators should work to preserve the right of the United States to use agricultural export credit and market development programs, as well as bona fide food aid.

Regarding the U.S. agriculture negotiating proposal submitted to the WTO in June 2000, the Committee recognizes that one of the U.S. objectives is to reduce substantially trade-distorting domestic support in a manner that corrects the disproportionate levels of support members use, while simplifying the way in which domestic support is disciplined.

The Committee is concerned about the disparities in the relative levels of agricultural production support between the United States and other developed countries. The Committee notes with interest with that while the maximum U.S. Aggregate Measure of Support (AMS) (as reported in the Uruguay Round Trade Agreement) is approximately $19.1 billion annually, the European Union's AMS is approximately $59.8 billion. Likewise, the Committee notes with great concern the disparities that exist with regard to export subsidies. For example, the EU provides approximately $5 billion annually in export subsidies compared to approximately $100 million provided by the United States.

The Committee believes that to correct these disparities, any reductions made to the U.S. Aggregate Measure of Support must be based upon the U.S. bound commitment ($19.1 billion annually, as reported in the Uruguay Round Trade Agreement), and not on any lower applied level. Further, subsidy cuts need to be reviewed in absolute dollar terms, and not only in percentage terms.

The Committee also believes that establishing a common base year for the Aggregate Measure of Support will increase certainty and transparency in agricultural subsidy negotiations. Under the common base year concept, all countries would have to agree to make subsidy commitments based upon data from a common set of base years. Therefore, having a common base year will help ensure that the United States is not put at a disadvantage in these negotiations, since countries would be prevented from choosing a base year in which they had unusually high agricultural subsidies.

The Committee recognizes that in order for the U.S. agricultural sector to compete on a level global playing field, the U.S. Trade Representative must seek disciplines on domestic support polices.

These disciplines will help ensure that U.S. producers face an international trade environment that is based upon world market prices.

Regarding U.S. import-sensitive products, the Committee believes that USTR should seek reasonable adjustment periods for these products. The Committee also believes that USTR should seek improved import relief mechanisms that recognize the unique characteristics of perishable and cyclical agriculture. Further, the Committee believes that it is important that USTR formulate a specific proposal on the treatment of seasonal and perishable agricultural products to be employed in the future negotiations in order to develop an international consensus on the treatment of such products in investigations relating to dumping, safeguards, and other relevant trade remedies. Since the Committee also believes that the timing of this proposal is of the highest importance, the Committee expects USTR to prepare this proposal as soon as possible, especially as the United States has commenced negotiations on agriculture in the WTO, as well as negotiations for the Free Trade Area of the Americas, and several bilateral free trade agreements.

The Committee also believes that, during trade negotiations, USTR should take into account whether a trading partner has failed to adhere to existing agreements, and whether trade in a specific product is subject to market distortions resulting from the failure of a major producing country to comply with its trade agreements with the United States.

The Committee intends that the Administration seek an end to unjustified restrictions that affect new technologies, such as labeling when used as an unjustified restriction.

Labor and environment: The Committee believes that trade promotion authority may be used with respect to ensuring that a foreign government does not fail to effectively enforce its own environmental or labor laws, if: (1) the failure reflects a sustained or recurring course of action or inaction; and (2) is undertaken in a manner affecting trade between the United States and that country. The language provides an exception if the behavior reflects a reasonable exercise of discretion or results from a bona fide decision regarding allocation of resources. The Committee used the U.S.-Jordan Free Trade Agreement as a model for this language, which permits parties to the agreement to retain the right to set their own labor and environmental standards.

In determining whether foreign government policies and practices are covered by this negotiating objective, the Committee intends that the USTR consult closely with the Congress, the private sector, and other interested groups.

The Committee also believes that the United States should seek to strengthen the capacity of U.S. trading partners to promote respect for core labor standards, as defined in the legislation. With respect to the environment, the Committee believes that the United States should also seek (1) to strengthen the capacity of U.S. trading partners to protect the environment through the promotion of sustainable development; (2) to promote government practices or policies in the area of trade that improve sustainable development and to reduce or eliminate practices or policies related to trade that

unduly threaten sustainable development; and (3) to seek market access for U.S. environmental technologies, goods, and services.

Finally, the Committee recognizes that in certain circumstances, aspects of practices and policies involving labor, the environment, and other matters may decrease market opportunities for U.S. exports or otherwise distort U.S. trade. Those aspects of these policies and practices may accordingly be included in trade agreements whose implementation qualifies for TPA.

Specifically, the Committee intends that this negotiating objective cover the use of labor and environmental laws by another country to restrict U.S. access to its market; if another country sought to use labor or environmental restrictions to limit trade improperly, the United States should be able to respond in trade terms.

Dispute settlement and enforcement: The Committee intends that USTR seek provisions in trade agreements providing for resolution of disputes between governments in an effective, timely, transparent, equitable, and reasoned manner requiring determinations based on facts and the principles of the agreement, with the goal of increasing compliance. The Committee's primary goal with respect to this negotiating objective is to promote compliance with trade agreements.

The Committee also believes that consultations are an important means of settling disputes early and effectively, without resort to remedies or penalties, and urges USTR to seek to establish meaningful consultation mechanisms in trade agreements.

The Committee also supports the use of compensation to resolve disputes, whereby a party found to be violating a trade agreement lowers tariffs or otherwise increases access to its own market to rebalance the loss of concessions brought upon by that party's failure to adhere to its obligations. If the parties resort to other remedies or penalties, the Committee urges USTR to ensure that dispute settlement provisions in trade agreements encourage compliance and are appropriate to the parties, nature, subject matter, and scope of the violation.

In addition, the Committee strongly believes that the remedies and penalties made available to parties under dispute settlement should have the aim of not adversely affecting parties or interests not party to the dispute while maintaining the effectiveness of the enforcement mechanism. Too often, dispute settlement has the effect of creating collateral damage by harming parties who had not been involved in the original dispute. At the same time, however, the Committee believes that whatever mechanism selected should be effective and encourage compliance with trade obligations.

The Committee also intends that trade agreements treat U.S. all principal negotiating objectives equally with respect to ability to resort to dispute settlement and availability of equivalent procedures and remedies. The Committee believes that the concept of "equivalent" remedy will allow negotiators flexibility in determining the appropriate remedies, with the fundamental purpose of finding remedies that are effective in promoting compliance with the objective at issue even if they may not be identical.

Finally, the Committee notes that the term "international trade" includes both imports and exports, as well as trade in services, trade-related investment, and trade-related intellectual property.

3. SECTION 2(c): PROMOTION OF CERTAIN PRIORITIES

Present/expired law

No provision.

Explanation of provision

Section 2(c) sets forth certain priorities for the President to address. These provisions include seeking greater cooperation between WTO and the ILO; seeking to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of U.S. trading partners to promote respect for core labor standards; seeking to seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of U.S. trading partners to develop and implement standards for environment and human health based on sound science; conducting environmental reviews of future trade and investment agreements, consistent with Executive Order 13141 and its relevant guidelines; reviewing the impact of future trade agreements on U.S. employment, modeled after Executive Order 13141; taking into account, in negotiating trade agreements, protection of legitimate health or safety, essential security, and consumer interests; requiring the Secretary of Labor to consult with foreign parties to trade negotiations as to their labor laws and providing technical assistance where needed; reporting to Congress on the extent to which parties to an agreement have in effect laws governing exploitative child labor; preserving the ability of the United States ability to enforce rigorously its trade laws, including antidumping and countervailing duty laws, and avoid agreements which lessen their effectiveness; continuing to promote consideration of Multilateral Environmental Agreements (MEAs) and consult with parties to such agreements regarding the consistency of any MEA that includes trade measures with existing environmental exceptions under Article XX of the GATT.

In addition, USTR, twelve months after the imposition of a penalty or remedy by the United States permitted by an agreement to which this Act applies, is to report to the Committee on the effectiveness of remedies applied under U.S. law to enforce U.S. rights under trade agreements. USTR shall address whether the remedy was effective in changing the behavior of the targeted party and whether the remedy had any adverse impact on parties or interests not party to the dispute.

Reason for change

The Committee believes that there are certain priorities that USTR should pursue parallel to trade negotiations in order to promote respect for core labor standards and to develop and implement standards for environment and human health based on sound science. Capacity building within the developing world, the establishment of consultative mechanisms, and greater cooperation between the WTO and the ILO are important means for accomplishing these goals. USTR is to consult regularly with Members and the COG regarding its efforts regarding capacity-building within the developing world and report to the Committee on these efforts.

The Committee also believes that the United States, through thorough internal reviews, should continue the existing practice of assessing the impact of trade agreements and investment components of trade agreements on the environment, as it has been doing under Executive Order 13141, and on U.S. employment and labor markets. The intent is not to codify the Executive Order or guidelines, or to create a mechanism for judicial review of these assessments, but to continue the process that USTR began under the Clinton Administration on the environment and expand it to employment. The Committee believes strongly that such reviews will show the positive impacts of trade on the environment and on employment.

In addition, the Committee believes that parallel to the trade negotiating process, the Department of Labor should learn more about the labor laws of a potential trading partner and provide technical assistance, if needed. With respect to exploitative child labor, the Committee believes that Congress should be aware of the laws of parties to trade agreements with the United States.

The Committee also intends to enhance domestic policy coordination and communication, both in the United States and in other countries, between Multilateral Environmental Agreement (MEA) and trade agreement negotiators, with a view toward the continued compatibility of MEA and WTO rules.

The Committee also intends that USTR take into account other important domestic priorities, including the protection of legitimate health or safety, essential security, and consumer interests.

The Committee also intends that negotiators preserve, in all trade agreements, the ability of the United States to enforce rigorously its antidumping and countervailing duty laws, and to avoid any agreement that would lessen the effectiveness of the current U.S. antidumping and countervailing duty remedies. The Committee regards this directive as critically important for any new trade agreement to serve the overall economic interests of the United States. The Committee clarifies that although this provision is not included in sections 2 (a) or (b) of the bill (relating to negotiating objectives), this is not an indication that the resolve to maintain existing U.S. antidumping and countervailing duty laws is in any way diminished, and in fact it has been included in a section of the bill indicating actions the President shall take.

Finally, the Committee is requiring USTR to provide to the Committee, each time it imposes trade remedies to enforce U.S. rights under a trade agreement, an assessment of the effectiveness of those remedies. The Committee wishes to learn whether the remedy was effective in changing the behavior of the targeted party and whether the remedy had any adverse impact on parties or interests not party to the dispute. This provision underscores the Committee's commitment to an effective dispute settlement process.

4. SECTION 2 (d)-(e): CONSULTATIONS, ADHERENCE TO OBLIGATIONS UNDER URUGUAY ROUND AGREEMENTS

Present/expired law

No provision.

Explanation of provision

Section 2(d) requires that USTR consult closely and on a timely basis with the Congressional Oversight Group appointed under section 7. In addition, USTR would be required to consult closely (including immediately before the initialing of an agreement) with the congressional advisers on trade policy and negotiations appointed under section 161 of the Trade Act of 1974, as well as the House Committee on Ways and Means, the Senate Committee on Finance, and the Congressional Oversight Group. With regard to negotiations concerning agriculture trade, USTR would also be required to consult with the House and Senate Committees on Agriculture.

In determining whether to enter into negotiations with a particular country, section 2(e) would require the President to take into account whether that country has implemented its obligations under the Uruguay Round Agreements.

Reason for change

The Committee intends that the Administration maintain close contacts with the Committee, with Congressional advisers on trade policy, and with the newly-formed permanent Congressional Oversight Group throughout the negotiation process, including immediately before the initialing of the agreement. With respect to agriculture negotiations, the Committee believes that the Agriculture Committee should have improved consultations as well. Such consultations must be both meaningful and timely.

5. SECTION 3: TRADE AGREEMENTS AUTHORITY

Present/expired law

Tariff proclamation authority. Section 1102(a) of the 1988 Act provided authority to the President to proclaim modifications in duties without the need for Congressional approval, subject to certain limitations. Specifically, for rates that exceed 5 percent *ad valorem,* the President could not reduce any rate of duty to a rate less than 50 percent of the rate of duty applying on the date of enactment. Rates at or below 5 percent could be reduced to zero. Any duty reduction that exceeded 50 percent of an existing duty higher than 5 percent or any tariff increase had to be approved by Congress.

Staging authority required that duty reductions on any article could not exceed 3 percent per year, or one-tenth of the total reduction, whichever is greater, except that staging was not required if the International Trade Commission determined there was no U.S. production of that article.

Negotiation of bilateral agreements. Section 1102(c) of the 1988 Act set forth three requirements for the negotiation of a bilateral agreement:

- The foreign country must request the negotiation of the bilateral agreement;
- The agreement must make progress in meeting applicable U.S. trade negotiating objectives; and
- The President must provide written notice of the negotiations to the Committee on Ways and Means and the Committee on Finance of the Senate and consult with these committees.

The negotiations could proceed unless either Committee disapproved the negotiations within 60 days prior to the 90 calendar days advance notice required of entry into an agreement (described below).

Negotiation of multilateral non-tariff agreements. With respect to multilateral agreements, section 1102(b) of the 1988 Act provided that whenever the President determines that any barrier to, or other distortion of, international trade unduly burdens or restricts the foreign trade of the United States or adversely affects the U.S. economy, or the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect, he may enter into a trade agreement with the foreign countries involved. The agreement must provide for the reduction or elimination of such barrier or other distortion or prohibit or limit the imposition of such a barrier or distortion.

Provisions qualifying for fast track procedures. Section 1103(b)(1)(A) of the 1988 Act provided that fast track apply to implementing bills submitted with respect to any trade agreements entered into under the statute. Section 151(b)(1) of the Trade Act of 1974 further defined "implementing bill" as a bill containing provisions "necessary or appropriate" to implement the trade agreement, as well as provisions approving the agreement and the statement of administrative action.

Time period. The authority applied with respect to agreements entered into before June 1, 1991, and until June 1, 1993 unless Congress passed an extension disapproval resolution. The authority was then extended to April 15, 1994, to cover the Uruguay Round of multilateral negotiations under the General Agreement on Tariffs and Trade.

Explanation of provision

Proclamation authority. Section 3(a) would provide the President the authority to proclaim, without Congressional approval, certain duty modifications in a manner very similar to the expired provision. Specifically, for rates that exceed 5 percent *ad valorem,* the President would not be authorized to reduce any rate of duty to a rate less than 50 percent of the rate of duty applying on the date of enactment. Rates at or below 5 percent *ad valorem* could be reduced to zero. Any duty reduction that exceeded 50 percent of an existing duty higher than 5 percent or any tariff increase would have to be approved by Congress. Staging authority would require that duty reductions on any article could not exceed 3 percent per year, or one-tenth of the total reduction, whichever is greater, except that staging would not be required if the International Trade Commission determined there is no U.S. production of that article.

These limitations would not apply to reciprocal agreements to eliminate or harmonize duties negotiated under the auspices of the World Trade Organization, such as so-called "zero-for-zero" negotiations.

Agreements on tariff and non-tariff barriers. Section 3(b)(1) would authorize the President to enter into a trade agreement with a foreign country whenever he determined that any duty or other import restriction or any other barrier to or distortion of international trade unduly burdens or restricts the foreign trade of the United States or adversely affects the U.S. economy, or the imposi-

tion of any such barrier or distortion is likely to result in such a burden, restriction, or effect. The agreement must provide for the reduction or elimination of such barrier or other distortion or prohibit or limit the imposition of such a barrier or distortion. No distinction would be made between bilateral and multilateral agreements.

Conditions. Section 3(b)(2) would provide that the special implementing bills procedures may be used only if the agreement makes progress in meeting the applicable objectives set forth in section 2 (a) and (b) and the President satisfies the consultation requirements set forth in section 4.

Bills qualifying for trade authorities procedures. Section 3(b)(3)(A) would provide that bills implementing trade agreements may qualify for trade promotion authority TPA procedures only if those bills consist solely of the following provisions:

- Provisions approving the trade agreement and statement of administrative action; and
- Provisions necessary or appropriate to implement the trade agreement.

Time period. Sections 3(a)(1)(A) and 3(b)(1)(C) would extend trade promotion authority to agreements entered into before June 1, 2005. An extension until June 1, 2007, would be permitted unless Congress passed a disapproval resolution, as described under section 3(c).

Reason for change

H.R. 3005, as amended, extends to the President the same authority to proclaim tariff modifications as under the 1988 Act. In addition, the President would be given authority to negotiate reciprocal duty eliminations on a sectoral basis within the WTO forum. The Committee believes that the Information Technology Agreement negotiated by the President under the auspices of the WTO to eliminate tariffs for information technology products all over the world was a substantial accomplishment. The Committee recognizes, however, that the President's ability to carry out such agreements is limited because section 111(b) of the Uruguay Round Agreements Act provides the President with proclamation authority applicable only to a limited number of sectors, that is those that were negotiated multilaterally under the WTO and that were the subject of negotiations on reciprocal duty elimination ("zero-for-zero") or harmonization during the Uruguay Round. Because of the success that the Information Technology Agreement promises for U.S. businesses and U.S. workers, the Committee wishes to provide authority for this and similar WTO sector-specific negotiations even if the sector had not been the subject of zero-for-zero negotiations during the Uruguay Round.

Therefore, the purpose of this special tariff proclamation authority is to permit the U.S. Trade Representative to negotiate sector-specific tariff elimination or harmonization agreements at any time during the course of the next round of WTO trade negotiations scheduled for later this year. The emphasis should be on reaching concrete results as soon as possible. The Committee recognizes that other nations may be reluctant to make binding commitments early in the negotiations, on the theory that this reduces their bargaining leverage on other items later in the round. To prevent such

concerns from slowing progress on near term tariff elimination agreements, the Committee intends that the special tariff proclamation authority could be used to negotiate provisional agreements which would allow for immediate tariff reductions, but make permanent duty elimination conditional on a final agreement in the new round. This would allow for near term benefits from tariff elimination, while preserving the ability of countries, including the United States, to condition the tariff cuts on a final comprehensive agreement on all subjects under negotiation in the new round.

While the Committee does not intend to limit the possible tariff elimination agreements that could be reached under this authority, it does wish to identify the following areas where it believes that tariff elimination negotiations should be focused before the conclusion of the round as a whole:

- Accelerated tariff elimination in those sectors where consensus can be achieved;
- Geographic expansion of the zero-for-zero tariff agreements reached in the Uruguay Round and in the Information Technology Agreement; and
- Geographic expansion of tariff harmonization agreements reached in the Uruguay Round.

H.R. 3005, as amended, would apply the same substantive and procedural requirements to all types of agreements, thus ending the special rules for bilateral versus multilateral agreements.

With respect to the requirements for bills qualifying for trade promotion authority, it is the Committee's intent to extend authority to the President to negotiate agreements that would be subject to the special procedures similar to that given to past Administrations.

The Committee believes that for historical and constitutional reasons, it is important to make trade promotion authority as tailored as possible so as not to unnecessarily intrude on normal legislative procedures. Trade promotion authority is an exception to the rule that is permitted only because of the recognition of the compelling need to consider quickly and efficiently legislation to implement trade agreements. The President and the Congress both have important powers with respect to trade and foreign affairs issues. Therefore, trade agreements do not readily fit the legislative model used to consider other types of legislation. Trade promotion authority has been developed to assure that trade relations with other countries are handled expeditiously and efficiently with the involvement of the executive and legislative branches. In so doing, the Committee has always recognized that this authority should apply only to meet the special requirements of trade agreements. To apply the authority more broadly would usurp a broad range of Congressional authority and prerogatives to make laws in these areas.

Moreover, the Committee believes that every attempt should be made to use TPA only for those provisions in the implementing bill that are strictly necessary or appropriate to implement the agreement. The Committee takes a strict interpretation of this language. Specifically, the Committee emphasizes that trade promotion authority, particularly section 103(b)(3)(C), should not apply to proposals to make wholesale changes to U.S. law merely because those laws may be addressed in the agreement. The Committee has been

concerned that a number of provisions that were not related to implementing the trade agreement at hand have been included in past implementing bills.

6. SECTION 4: CONSULTATIONS AND ASSESSMENT

Present/expired law

Section 102 of the Trade Act of 1974 and sections 1102(d) and 1103 of the 1988 Act set forth the fast track requirements. These provisions required the President, before entering into any trade agreement, to consult with Congress as to the nature of the agreement, how and to what extent the agreement will achieve applicable purposes, policies, and objectives, and all matters relating to agreement implementation. In addition, before entering into an agreement, the President was required to give Congress at least 90 calendar days advance notice of his intent. The purpose of this period was to provide the Congressional Committees of jurisdiction an opportunity to review the proposed agreement before it was signed.

Section 135(e) of the Trade Act of 1974 required that the Advisory Committee for Trade Policy and Negotiations meet at the conclusion of negotiations for each trade agreement and provide a report as to whether and to what extent the agreement promotes the economic interests of the United States and achieves the applicable overall and principal negotiating objectives of section 1101 of the 1988 Act. The report was due not later than the date on which the President notified Congress of his intent to enter into an agreement. With regard to the Uruguay Round, the report was due 30 days after the date of notification.

Explanation of provision

Section 4 of H.R. 3005, as amended, would establish a number of requirements that the President consult with Congress. Specifically, section 4(a)(1) would require the President to provide written notice and consult with the relevant committees at least 90 calendar days prior to entering into negotiations. Trade promotion authority would not apply to an implementing bill if both Houses separately agree to a procedural disapproval resolution within any 60-day period stating that the Administration has failed to notify or consult with Congress.

Section 4(b) would establish a special consultation requirement for agriculture. Specifically, before initiating negotiations concerning tariff reductions in agriculture, the President is to assess whether U.S. tariffs on agriculture products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country. In his assessment, the President would also be required to consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than U.S. tariffs and whether the negotiation provides an opportunity to address any such disparity. The President would be required to consult with the Committees on Ways and Means and Agriculture of the House and the Committees on Finance and Agriculture, Nutrition and Forestry of the Senate concerning the results of this assessment and whether it is appropriate for the United States to agree to further tariff reductions

under such circumstances and how all applicable negotiating objectives would be met.

In addition, section 4(c) would require the President, before entering into any trade agreement, to consult with the relevant Committees concerning the nature of the agreement, how and to what extent the agreement will achieve the applicable purposes, policies, and objectives set forth in H.R. 3005, as amended, and all matters relating to implementation under section 5, including the general effect of the agreement on U.S. laws.

Section 4(c) would require that the report of the Advisory Committee for Trade Policy and Negotiations under section 135(e)(1) of the Trade Act of 1974 be provided not later than 30 days after the date on which the President notifies Congress of his intent to enter into the agreement under section 5(a)(1)(A).

Finally, section 4(e) would require the President, at least 90 days before entering into a trade agreement, to ask the International Trade Commission to assess the agreement, including the likely impact of the agreement on the U.S. economy as a whole, specific industry sectors, and U.S. consumers. That report would be due 90 days from the date after the President enters into the agreement.

Reason for change

H.R. 3005, as amended, would treat all trade agreements concluded under section 3(b) in the same manner for consultation purposes and does not differentiate between bilateral and multilateral agreements. Accordingly, the bill would extend to all such negotiations, and not just to bilateral negotiations as in the 1988 Act, the requirement that the President provide prior written notice of negotiations.

The Committee emphasizes the importance of timely, complete, and rigorous consultations between the Administration and Congress. The improvements made with respect to consultations, as compared with the expired provisions, are designed to assure maximum Congressional participation before, during, and after the trade negotiating process. The Committee notes that in the past, consultations have been at times less than ideal and wishes to improve this process considerably to make it more meaningful. Given the significant Congressional role in trade policy set forth in the Constitution, it is imperative that Members and their staffs be given periodic and timely substantive briefings by U.S. negotiators and access to relevant documents and information sources. The Committee emphasizes that Congress must be fully involved in all phases of the negotiating process and must have the ability to fully express its views and exert its constitutional role. The Committee intends that throughout the process, the consultations address the nature of the agreement in question, how and to what extent the agreement will achieve the applicable purposes, policies, and objectives set forth in H.R. 3005, as amended, and all matters relating to implementation under section 5, including the general effect of the agreement on U.S. laws.

The provisions require broad consultations, involving Committees other than the Committee on Ways and Means. In addition, because of the special requirements of agriculture tariff negotiations, if there is a great tariff disparity between the U.S. duty rate and

the rate bound or applied by other countries, additional consultation requirements would apply.

H.R. 3005, as amended, would permit the Advisory Committee for Trade Policy and Negotiations to submit its report after the President notifies his intent to enter into an agreement, as opposed to requiring the report be filed on the same day as that notification. The Committee believes that the additional time would contribute to the usefulness of the report.

7. SECTION 5: IMPLEMENTATION OF TRADE AGREEMENTS

Present/expired law

Before entering into the draft agreement, the President was required to give Congress 90 days advance notice (120 days for the Uruguay Round) to provide an opportunity for revision before signature. After entering into the agreement, the President was required to submit formally the draft agreement, implementing legislation, and a statement of administrative action. Once the bill was formally introduced, there was no opportunity to amend any portion of the bill—whether on the floor or in committee. Consequently, before the formal introduction took place, the committees of jurisdiction would hold hearings, "unofficial" or "informal" mark-up sessions and a "mock conference" with the Senate committees of jurisdiction in order to develop a draft implementing bill together with the Administration and to make their concerns known to the Administration before it introduced the legislation formally.

After formal introduction of the implementing bill, the House committees of jurisdiction had 45 legislative days to report the bill, and the House was required to vote on the bill within 15 legislative days after the measure was reported or discharged from the committees. Fifteen additional days were provided for Senate committee consideration (assuming the implementing bill was a revenue bill), and the Senate floor action was required within 15 additional days. Accordingly, the maximum period for Congressional consideration of an implementing bill from the date of introduction was 90 legislative days. Amendments to the legislation were not permitted once the bill was introduced; the committee and floor actions consisted of "up or down" votes on the bill as introduced.

Finally, section 1103(d) of the 1988 Act specified that the fast track rules were enacted as an exercise of the rulemaking power of the House and the Senate, with the recognition of the right of either House to change the rules at any time.

Explanation of provision

Under section 5(a) of H.R. 3005, as amended, the President would be required, at least 90 days before entering into an agreement, to notify Congress of his intent to enter into the agreement. Section 5(a) also would establish a new requirement that the President, within 60 days of signing an agreement, submit to Congress a preliminary list of existing laws that he considers would be required to bring the United States into compliance with agreement.

Section 5(b) would provide that trade promotion authority would not apply if both Houses separately agree to a procedural disapproval resolution within any 60-day period stating that the Administration failed to notify or consult with Congress.

Most of the remaining provisions are identical to the expired law. Specifically, section 5(a) would require the President, after entering into agreement, to submit formally the draft agreement, the implementing legislation, and a statement of administrative action to Congress, and there would be no time limit to do so. The procedures of section 151 of the Trade Act of 1974 would then apply. Specifically, on the same day as the President formally submits the legislation, the bill would be introduced (by request) by the Majority Leaders of the House and the Senate. After formal introduction of the legislation, the House Committees of jurisdiction would have 45 legislative days to report the bill. The House would be required to vote on the bill within 15 legislative days after the measure was reported or discharged from the Committees. Fifteen additional days would be provided for Senate Committee consideration (assuming the implementing bill was a revenue bill), and Senate floor action would be required within 15 additional days. Accordingly, the maximum period for Congressional consideration of the implementing bill from the date of introduction would be 90 legislative days.

As with the expired provisions, once the bill has been formally introduced, no amendments would be permitted either in Committee or floor action, and a straight "up or down" vote would be required. Of course, before formal introduction, the bill could be developed by the Committees of jurisdiction together with the Administration during the informal Committee mark-up process.

Finally, as with the expired provision, section 5(c) specifies that sections 5(b) and 3(c) are enacted as an exercise of the rulemaking power of the House and the Senate, with the recognition of the right of either House to change the rules at any time.

Reason for change

The procedures established under H.R. 3005, as amended, are mainly identical to those of the 1988 Act, with considerable additional consultation requirements. The Committee believes that these procedures will permit Congress to participate meaningfully in the drafting of the implementing bill.

As with the past provision, there would be no deadline for the submission of the legislation by the President once an agreement has been concluded, because the Committee intends that the Committees and the Administration have as much time as necessary to consider the content of the legislation. After the formal introduction, certain deadlines are appropriate because Congress has already conducted its process informally. The Committee believes that the informal mark-up process conducted before formal submission of the implementing bill provides the Congress, the public, and the private sector ample opportunity to participate in the development of the proposed legislation and to provide their views to the Administration. The Committee encourages and expects the Administration to continue its practice of considering carefully the comments made during this informal process and of making no changes to the legislation beyond those recommended by the Committees. If the Administration must make changes to reconcile differing recommendations by the relevant Committees, the Committee expects that the Administration will continue to consult with the affected Committees.

H.R. 3005, as amended, would add a new procedural step requiring that the President submit to Congress, within 60 days of signing an agreement, a preliminary list of existing laws that he considers would be required to bring the United States into compliance with the agreement. This requirement has been added out of concern that in the past, Congress has not always been timely apprised of the changes to U.S. law that the Administration believes are required. This information is of vital importance to the Committee in its deliberations.

8. SECTION 6: TREATMENT OF CERTAIN TRADE AGREEMENTS

Present/expired law

No provision.

Explanation of provision

Section 6 exempts agreements resulting from ongoing negotiations with Chile or Singapore, an agreement establishing a Free Trade Area of the Americas, and agreements concluded under the auspices of the WTO from prenegotiation consultation requirements of section 4(a) only. However, upon enactment of H.R. 3005, as amended, the Administration is required to consult as to those elements set forth in section 4(a) as soon as feasible.

Reason for change

The Committee recognizes the importance of the listed negotiations to the United States and the need to implement them under trade promotion authority. However, because these negotiations have already begun or may have begun before H.R. 3005 is enacted, it would not be possible for the Administration to comply with the prenegotiation consultation requirements set forth in section 4(a). Accordingly, the Committee believes these requirements should be waived with regard to these agreements only. However, the Committee expects that the Administration will consult with Congress as soon as feasible after enactment of this Act and will continue to consult closely with the Committees throughout the negotiations so that the Committees may be informed about the issues and communicate any concerns.

9. SECTION 7: CONGRESSIONAL OVERSIGHT GROUP

Present/expired law

No provision.

Explanation of provision

Section 7 would require the Chairman of the Committee on Ways and Means and the Chairman of the Committee on Finance to chair and convene, sixty days after the effective date of this Act, the Congressional Oversight Group. The Group would be comprised of the following Members of the House: the Chairman and Ranking Member of the Committee on Ways and Means and three additional members of the Committee (not more than two of whom are from the same party), and the Chairman and Ranking Member of the Committees which would have, under the Rules of the House, jurisdiction over provisions of law affected by a trade negotiation. The Group would be comprised of the following Members of the

Senate: the Chairman and Ranking Member of the Committee on Finance and three additional members of the Committee (not more than two of whom are from the same party), and the Chairman and Ranking Member of the Committees which would have, under the Rules of the Senate, jurisdiction over provisions of law affected by a trade negotiation.

Members are to be accredited as official advisors to the U.S. delegation in the negotiations. USTR is to develop guidelines to facilitate the useful and timely exchange of information between USTR and the Group, including regular briefings, access to pertinent documents, and the closest possible coordination at all critical periods during the negotiations, including at negotiation sites.

Reason for change

The Committee believes that the establishment of the Congressional Oversight Group will greatly facilitate the meaningful and timely exchange of information and views between USTR and Congress. The Group is designed to involve a broad bipartisan cross-section of the House and Senate so that USTR will benefit from many viewpoints. Specifically, the Committee intends that the Group be bipartisan and include representation beyond the Ways and Means and Finance Committees to include those Committees that have jurisdiction over provisions of law affected by a trade negotiation. The composition of the Group is flexible to allow for the inclusion, after the convening of the Group, of additional Committees if developments in the negotiation indicate that they will have jurisdiction over laws affected by the negotiation.

Finally, by developing written guidelines for the exchange of information in consultation with the Committee, USTR will formally institutionalize the consultation process to maximize its effectiveness.

10. SECTION 8: ADDITIONAL IMPLEMENTATION AND ENFORCEMENT REQUIREMENTS

Present/expired law

No provision.

Explanation of provision

Section 8 would require the President to submit to the Congress a plan for implementing and enforcing any trade agreement resulting from this Act. The report is to be submitted simultaneously with the text of the agreement and is to include a review of the Executive Branch personnel needed to enforce the agreement as well as an assessment of any U.S. Customs Service infrastructure improvements required. The range of personnel to be addressed in the report is very comprehensive, including U.S. Customs and Department of Agriculture border inspectors, and monitoring and implementing personnel at USTR, the Departments of Agriculture, Commerce, and the Treasury, and any other agencies as may be required.

Reason for change

The Committee believes that successful negotiations by themselves are not sufficient to realize the benefits from freer trade.

Monitoring and enforcement are complementary and necessary factors in the trade liberalization process. That is, meaningful progress will result when trading partners know that the United States stands ready to enforce its rights under trade agreements. This provision, the Committee believes, will help to enhance the enforcement readiness of the United States by requiring the President to conduct a systematic review of the various agencies involved in border and other types of trade monitoring and implementing activities. Further, the Committee recognizes that infrastructure improvements are important for Customs to maintain adequate border controls. Therefore, the provision also requires the President to provide a description of any additional equipment and facilities required by Customs to enforce the agreement.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the votes of the Committee on Ways and Means in its consideration of the bill, H.R. 3005.

MOTION TO REPORT THE BILL

The bill, H.R. 3005, as amended, was ordered favorably reported by a roll call vote of 26 yeas to 13 nays (with a quorum being present). The vote was as follows:

Representatives	Yea	Nay	Representatives	Yea	Nay
Mr. Thomas	X		Mr. Rangel		X
Mr. Crane	X		Mr. Stark		
Mr. Shaw	X		Mr. Matsui		X
Mrs. Johnson	X		Mr. Coyne		
Mr. Houghton	X		Mr. Levin		X
Mr. Herger	X		Mr. Cardin		X
Mr. McCrery	X		Mr. McDermott		X
Mr. Camp	X		Mr. Kleczka		X
Mr. Ramstad	X		Mr. Lewis (GA)		X
Mr. Nussle	X		Mr. Neal		X
Mr. Johnson	X		Mr. McNulty		X
Ms. Dunn	X		Mr. Jefferson	X	
Mr. Collins	X		Mr. Tanner	X	
Mr. Portman	X		Mr. Becerra		X
Mr. English	X		Mrs. Thurman		X
Mr. Watkins	X		Mr. Doggett		X
Mr. Hayworth	X		Mr. Pomeroy		X
Mr. Weller	X				
Mr. Hulshof	X				
Mr. McInnis	X				
Mr. Lewis (KY)	X				
Mr. Foley	X				
Mr. Brady	X				
Mr. Ryan	X				

VOTE ON AMENDMENTS

A roll call vote was conducted on the following amendment to the Chairman's amendment in the nature of a substitute.

A substitute amendment by Mr. Rangel, was defeated by a roll call vote of 12 yeas to 26 nays, with 1 member passing. The vote was as follows:

Representatives	Yea	Nay	Representatives	Yea	Nay
Mr. Thomas		X	Mr. Rangel	X	
Mr. Crane		X	Mr. Stark		
Mr. Shaw		X	Mr. Matsui	X	
Mrs. Johnson		X	Mr. Coyne		
Mr. Houghton		X	Mr. Levin	X	
Mr. Herger		X	Mr. Cardin	X	
Mr. McCrery		X	Mr. McDermott	X	
Mr. Camp		X	Mr. Kleczka	X	
Mr. Ramstad		X	Mr. Lewis (GA)	X	
Mr. Nussle		X	Mr. Neal	X	
Mr. Johnson		X	Mr. McNulty	X	
Ms. Dunn		X	Mr. Jefferson [1]		
Mr. Collins		X	Mr. Tanner		X
Mr. Portman		X	Mr. Becerra	X	
Mr. English		X	Mrs. Thurman		X
Mr. Watkins		X	Mr. Doggett	X	
Mr. Hayworth		X	Mr. Pomeroy	X	
Mr. Weller		X			
Mr. Hulshof		X			
Mr. McInnis		X			
Mr. Lewis (KY)		X			
Mr. Foley		X			
Mr. Brady		X			
Mr. Ryan		X			

[1] Mr. Jefferson passed.

IV. BUDGET EFFECTS OF THE BILL

A. Committee Estimates of Budgetary Effect

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the Committee agrees with cost estimates furnished by the Congressional Budget Office on H.R. 3005, as amended, set forth below.

B. Budget Authority and Tax Expenditures

In compliance with subdivision 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill would have no effect on revenues because future trade agreements would require implementing legislation.

C. Cost Estimate Prepared by the Congressional Budget Office

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the Congressional Budget Office, the following report prepared by CBO is provided.

U.S. Congress,
Congressional Budget Office,
Washington, DC, October 11, 2001.

Hon. William "Bill" M. Thomas,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3005, the Bipartisan Trade Promotion Authority Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Erin Whitaker.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 3005—Bipartisan Trade Promotion Authority Act

Summary: H.R. 3005 would restore the President's authority to enter into multilateral and bilateral trade agreements with Congressional approval or rejection of, but not amendment to, those agreements. Enacting the bill would not affect revenues, so pay-as-you-go procedures would not apply.

CBO has determined that H.R. 3009 contains no new private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: CBO estimates that enacting H.R. 3005 would have no budgetary impact.

Basis of estimate: Before their expiration on June 1, 1993, sections 1102 and 1103 of the Omnibus Trade and Competitiveness Act of 1988 granted the President the authority to enter into multilateral and bilateral trade agreements. The President could reduce certain tariffs by proclamation within specified bounds prescribed by the law. For provisions subject to Congressional approval, the Congress could not amend implementing legislation once it was introduced. Furthermore, as long as the President met statutory requirements concerning Congressional consultation during the negotiation process, Congress was required to act on the legislation following a strict timetable. P.L. 103–40 temporarily extended these provisions through April 16, 1994, for any trade agreement resulting from the Uruguay Round negotiations taking place under the General Agreement on Tariffs and Trade.

H.R. 3005 would restore the President's authority to propose trade agreements under an expedited procedure for Congressional approval. The bill would have no direct effect on revenues, because future trade agreements would require implementing legislation.

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: The bill contains no new private-sector or intergovernmental mandates as defined in UMRA and would not impose any costs on state, tribal, or local governments.

Estimate prepared by: Revenues: Erin Whitaker. Impact on State, Local, and Tribal Governments: Elyse Goldman. Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Roberton Williams, Assistant Director for Tax Analysis.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was as a result of the Committee's oversight

activities concerning customs and tariff matters, import trade matters, and specific trade-related issues that the Committee concluded that it was appropriate to enact the provisions contained in the bill.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that H.R. 3005 is intended to improve the performance of the Executive Branch with respect to negotiating trade agreements to increase opportunities for U.S. companies, workers, and farmers.

C. CONSTITUTIONAL AUTHORITY STATEMENT

With respect to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, relating to Constitutional Authority, the Committee states that the Committee's action in reporting the bill is derived from Article I of the Constitution, Section 8 ("The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and to provide for * * * the general Welfare of the United States * * *".

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TRADE ACT OF 1974

* * * * * * *

TITLE I—NEGOTIATING AND OTHER AUTHORITY

* * * * * * *

CHAPTER 3—HEARINGS AND ADVICE CONCERNING NEGOTIATIONS

SEC. 131. ADVICE FROM INTERNATIONAL TRADE COMMISSION.

(a) LISTS OF ARTICLES WHICH MAY BE CONSIDERED FOR ACTION.—

(1) In connection with any proposed trade agreement under [section 123 of this Act or section 1102 (a) or (c) of the Omnibus Trade and Competitiveness Act of 1988,] *section 123 of this Act or section 3 (a) or (b) of the Bipartisan Trade Promotion Authority Act of 2001,* the President shall from time to time publish and furnish the International Trade Commission (hereafter in this section referred to as the "Commission") with lists of articles which may be considered for modification or continuance of United States duties, continuance of United

States duty-free or excise treatment, or additional duties. In the case of any article with respect to which consideration may be given to reducing or increasing the rate of duty, the list shall specify the provision of this subchapter under which such consideration may be given.

(2) In connection with any proposed trade agreement under [section 1102 (b) or (c) of the Omnibus Trade and Competitiveness Act of 1988] *section 3(b) of the Bipartisan Trade Promotion Authority Act of 2001*, the President may from time to time publish and furnish the Commission with lists of nontariff matters which may be considered for modification.

(b) ADVICE TO PRESIDENT BY COMMISSION.—Within 6 months after receipt of a list under subsection (a) or, in the case of a list submitted in connection with a trade agreement, within 90 days after receipt of such list, the Commission shall advise the President, with respect to each article or nontariff matter, of its judgment as to the probable economic effect of modification of the tariff or nontariff measure on industries producing like or directly competitive articles and on consumers, so as to assist the President in making an informed judgment as to the impact which might be caused by such modifications on United States interests, such as sectors involved in manufacturing, agriculture, mining, fishing, services, intellectual property, investment, labor, and consumers. Such advice may include in the case of any article the advice of the Commission as to whether any reduction in the rate of duty should take place over a longer period of time than the minimum period provided for in [section 1102(a)(3)(A)] *section 3(a)(3)(A) of the Bipartisan Trade Promotion Authority Act of 2001*.

(c) ADDITIONAL INVESTIGATIONS AND REPORTS REQUESTED BY THE PRESIDENT OR THE TRADE REPRESENTATIVE.—In addition, in order to assist the President in his determination whether to enter into any agreement under section 123 of this Act or [section 1102 of the Omnibus Trade and Competitiveness Act of 1988,] *section 3 of the Bipartisan Trade Promotion Authority Act of 2001,* or how to develop trade policy, priorities or other matters (such as priorities for actions to improve opportunities in foreign markets), the Commission shall make such investigations and reports as may be requested by the President or the United States Trade Representative on matters such as effects of modification of any barrier to (or other distortion of) international trade on domestic workers, industries or sectors, purchasers, prices and quantities of articles in the United States.

* * * * * * *

SEC. 132. ADVICE FROM EXECUTIVE DEPARTMENTS AND OTHER SOURCES.

Before any trade agreement is entered into under section 123 of this Act or [section 1102 of the Omnibus Trade and Competitiveness Act of 1988,] *section 3 of the Bipartisan Trade Promotion Authority Act of 2001,* the President shall seek information and advice with respect to such agreement from the Departments of Agriculture, Commerce, Defense, Interior, Labor, State and the Treasury, from the United States Trade Representative, and from such other sources as he may deem appropriate. Such advice shall be prepared and presented consistent with the provisions of Reorga-

nization Plan Number 3 of 1979, Executive Order Number 12188 and section 141(c).

SEC. 133. PUBLIC HEARINGS.

(a) OPPORTUNITY FOR PRESENTATION OF VIEWS.—In connection with any proposed trade agreement under section 123 of this Act or [section 1102 of the Omnibus Trade and Competitiveness Act of 1988,] *section 3 of the Bipartisan Trade Promotion Authority Act of 2001,* the President shall afford an opportunity for any interested person to present his views concerning any article on a list published under section 131, any matter or article which should be so listed, any concession which should be sought by the United States, or any other matter relevant to such proposed trade agreement. For this purpose, the President shall designate an agency or an interagency committee which shall, after reasonable notice, hold public hearings and prescribe regulations governing the conduct of such hearings. When appropriate, such procedures shall apply to the development of trade policy and priorities.

* * * * * * *

SEC. 134. PREREQUISITES FOR OFFERS.

(a) In any negotiation seeking an agreement under section 123 of this Act or [section 1102 of the Omnibus Trade and Competitiveness Act of 1988,] *section 3 of the Bipartisan Trade Promotion Authority Act of 2001,* the President may make a formal offer for the modification or continuance of any United States duty, import restrictions, or barriers to (or other distortions of) international trade, the continuance of United States duty-free or excise treatment, or the imposition of additional duties, import restrictions, or other barrier to (or other distortion of) international trade including trade in services, foreign direct investment and intellectual property as covered by this title, with respect to any article or matter only after he has received a summary of the hearings at which an opportunity to be heard with respect to such article has been afforded under section 133. In addition, the President may make an offer for the modification or continuance of any United States duty, the continuance of United States duty-free or excise treatment, or the imposition of additional duties, with respect to any article included in a list published and furnished under section 131(a), only after he has received advice concerning such article from the Commission under section 131(b), or after the expiration of the 6-month or 90-day period provided for in that section, as appropriate, whichever first occurs.

(b) In determining whether to make offers described in subsection (a) in the course of negotiating any trade agreement under [section 1102 of the Omnibus Trade and Competitiveness Act of 1988] *section 3 of the Bipartisan Trade Promotion Authority Act of 2001,* and in determining the nature and scope of such offers, the President shall take into account any advice or information provided, or reports submitted, by—

(1) * * *

* * * * * * *

SEC. 135. INFORMATION AND ADVICE FROM PRIVATE AND PUBLIC SECTORS.

(a) IN GENERAL.—

(1) The President shall seek information and advice from representative elements of the private sector and the non-Federal governmental sector with respect to—

(A) negotiating objectives and bargaining positions before entering into a trade agreement under this title or [section 1102 of the Omnibus Trade and Competitiveness Act of 1988] *section 3 of the Bipartisan Trade Promotion Authority Act of 2001*;

* * * * * * *

(e) MEETING OF ADVISORY COMMITTEES AT CONCLUSION OF NEGOTIATIONS.—

(1) The Advisory Committee for Trade Policy and Negotiations, each appropriate policy advisory committee, and each sectoral or functional advisory committee, if the sector or area which such committee represents is affected, shall meet at the conclusion of negotiations for each trade agreement entered into under [section 1102 of the Omnibus Trade and Competitiveness Act of 1988] *section 3 of the Bipartisan Trade Promotion Authority Act of 2001*, to provide to the President, to Congress, and to the United States Trade Representative a report on such agreement. Each report that applies to a trade agreement entered into under [section 1102 of the Omnibus Trade and Competitiveness Act of 1988] *section 3 of the Bipartisan Trade Promotion Authority Act of 2001* shall be provided under the preceding sentence not later than the date on which the President notifies the Congress under [section 1103(a)(1)(A) of such Act of 1988] *section 5(a)(1)(A) of the Bipartisan Trade Promotion Authority Act of 2001* of his intention to enter into that agreement.

(2) The report of the Advisory Committee for Trade Policy and Negotiations and each appropriate policy advisory committee shall include an advisory opinion as to whether and to what extent the agreement promotes the economic interests of the United States and achieves the applicable overall and principal negotiating objectives set forth in [section 1101 of the Omnibus Trade and Competitiveness Act of 1988] *section 2 of the Bipartisan Trade Promotion Authority Act of 2001*, as appropriate.

* * * * * * *

CHAPTER 5—CONGRESSIONAL PROCEDURES WITH RESPECT TO PRESIDENTIAL ACTIONS

SEC. 151. BILLS IMPLEMENTING TRADE AGREEMENTS ON NONTARIFF BARRIERS AND RESOLUTIONS APPROVING COMMERCIAL AGREEMENTS WITH COMMUNIST COUNTRIES.

(a) * * *

(b) DEFINITIONS.—For purposes of this section—

(1) The term "implementing bill" means only a bill of either House of Congress which is introduced as provided in subsection (c) with respect to one or more trade agreements, or with respect to an extension described in section 282(c)(3) of the Uruguay Round Agreements Act, submitted to the House of Representatives and the Senate under section 102 of this

Act, [section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988, or section 282 of the Uruguay Round Agreements Act] *section 282 of the Uruguay Round Agreements Act, or section 5(a)(1) of the Bipartisan Trade Promotion Authority Act of 2001* and which contains—

(A) * * *

* * * * * * *

(c) INTRODUCTION AND REFERRAL.—

(1) On the day on which a trade agreement or extension is submitted to the House of Representatives and the Senate under section 102 [or section 282 of the Uruguay Round Agreements Act], *section 282 of the Uruguay Round Agreements Act, or section 5(a)(1) of the Bipartisan Trade Promotion Authority Act of 2001*, the implementing bill submitted by the President with respect to such trade agreement or extension shall be introduced (by request) in the House by the majority leader of the House, for himself and the minority leader of the House, or by Members of the House designated by the majority leader and minority leader of the House; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such a trade agreement or extension is submitted, the implementing bill shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which the House is in session. Such bills shall be referred by the Presiding Officers of the respective Houses to the appropriate committee, or, in the case of a bill containing provisions within the jurisdiction of two or more committees, jointly to such committees for consideration of those provisions within their respective jurisdictions.

* * * * * * *

CHAPTER 6—CONGRESSIONAL LIAISON AND REPORTS

* * * * * * *

SEC. 162. TRANSMISSION OF AGREEMENTS TO CONGRESS.

(a) As soon as practicable after a trade agreement entered into under section 123 or 124 [or under section 1102 of the Omnibus Trade and Competitiveness Act of 1988] *or under section 3 of the Bipartisan Trade Promotion Authority Act of 2001* has entered into force with respect to the United States, the President shall, if he has not previously done so, transmit a copy of such trade agreement to each House of the Congress together with a statement, in the light of the advice of the International Trade Commission under section 131(b), if any, and of other relevant considerations, of his reasons for entering into the agreement.

* * * * * * *

VII. ADDITIONAL AND DISSENTING VIEWS

DISSENTING VIEWS ON H.R. 3005

Putting forth H.R. 3005, even if one or two Democrats on the Committee agree with it, is not true bipartisanship. And it particularly fails the test of broad bipartisanship necessary during this challenging period for our country.

This is truly a shame because issues of international relationships and trade have traditionally been very bipartisan—particularly in the history of this great Ways and Means Committee. The Democratic members of this Committee have played key roles in the passage of many recent trade bills—the African Growth and Opportunity Act, enhanced Caribbean Basin Initiative, U.S.-Vietnam Bilateral Trade Agreement, U.S.-Jordan Free Trade Agreement, and the legislation granting Permanent Normal Trade Relations to China.

The Africa bill or enhanced CBI legislation would not have occurred without Rep. McDermott and Rep. Jefferson, among others, working with Rep. Crane and others. We would not have been able to accomplish granting permanent normal trade relations to China without the efforts of Rep. Levin working with Rep. Bereuter. And we would not have had the prior "Fast Track" bills without the support and the work of Rep. Matsui. Instead of following these successes, the vote today is likely the most partisan Committee vote on a trade issue in more than a quarter century.

We understand Congress' constitutional responsibility to work with the President in setting trade policy while not micro-managing. But we also understand that, as the world's most important power, we have a responsibility to workers around the world, to the environment in which we share, and to the Constitution. Nations should not be permitted to gain unfair trade advantages by shirking accepted fundamental standards or humanity's responsibility to protect our environment. And Congress cannot forget its constitutional responsibility to be a full partner with the President in setting trade policy.

The reality of H.R. 3005 does not measure up to the rhetoric.

The Thomas bill falls short in a number of key areas, including:

- On labor, the Thomas bill would provide only that a country enforce its own laws whatever they may be. There is only rhetoric and no requirement that a country's law include any of the five core labor standards—bans on child labor, discrimination, and slave labor, and the rights to associate and to bargain collectively.
- On the environment, the Thomas bill does not address key problems in the investment area or direct that concrete steps be taken to integrate Multilateral Environmental Agreements (MEAs) with trade agreements.

- On the critical issue of trade remedies, the Thomas bill does not provide that the President must make progress towards achieving this priority. We believe that the objective of preventing weakening of U.S. trade remedies—*e.g.,* to renew lesser duty or public interest rule—must be scrupulously followed for any new trade agreement to serve the overall economic interests of the United States. The Thomas bill's approach is particularly dissatisfying given recent WTO panel and Appellate Body decisions imposing new obligations on the use of the trade remedies.
- On Congress' role, the Thomas bill mentions "consultations" but this is no magic word. This has been in past "Fast Track" bills and yet, we have yet to be adequately consulted. Presidents Clinton and Bush never consulted with us. Presidents Reagan and Carter did not consult us. The word means nothing without sufficient incentives to ensure that a President will actually listen in a meaningful way. The Thomas bill not only does not build on the mechanisms included in the last fast track law in 1988, it actually deletes one of those mechanisms.
- In agriculture, H.R. 3019 makes clear that U.S. negotiating objectives for the FTAA negotiations and the WTO negotiations will necessarily be quite different, in view of the fact that certain key U.S. priorities (for example, relating to export subsidies and domestic supports) relate to the policies of the European Union. The EU will not even be at the table in the FTAA negotiations. Accordingly, for the United States to negotiate reductions in domestic supports in the FTAA context, without first securing commitments from the EU in the WTO context, would be tantamount to unilateral disarmament.
- In many other areas, the H.R. 3005 falls short in comparison with H.R. 3019.

We had hoped during the past year that there would be an opportunity to address the *substantive* issues relating to fast track/TPA legislation. The Chairman and others in his party have chosen not to do this.

We offer H.R. 3019, the Comprehensive Trade Negotiating Authority Act of 2001, as an affirmative model for the way fast track legislation can be written to achieve all of our objectives as Americans, Democrats and Republicans together. This bill addresses the full range of trade issues ranging from agicultural and services trade, to high technology trade and electronic commerce, to environment and trade, labor standards and trade, and trade remedies, to protection of intellectual property rights, opening up the world trading system to public view and input from NGOs, businesses and unions, and addressing corruption. The bill also addresses the essential issue of the constitutional role of Congress. The following section-by-section summary of H.R. 3019 provides a synopsis of the ways in which H.R. 3019 addresses these and other key issues.

SECTION-BY-SECTION SUMMARY OF H.R. 3019

Overview

The bill advances the interests of all Americans by enabling the United States to take full advantage of new trading opportunities

for American workers, farmers and businesses, and by shaping trade to maximize its benefits and minimize its costs. The proposal accomplishes these goals by: (1) setting out clear directions through specific negotiating objectives for the United States in a wide range of areas and (2) updating and strengthening Congress' role in overseeing the trade negotiation process.

Section 1—Short Title

Section 2—Negotiating Objectives

Section 2(a)—Overall Trade Negotiating Objectives

Section 2(a) sets forth "overall trade negotiating objectives" that U.S. negotiators are to use to guide them in negotiations. These "overall trade negotiating objectives" are broad-based statements of congressional policy in 16 key areas. Unlike the "Principal Negotiating Objectives" in section 2(b), "Overall Trade Negotiating Objectives" are not intended to lead to negotiation of specific agreements.

Section 2(b)—Principal Negotiating Objectives Under WTO

Section 2(b) contains Congress' principal negotiating objectives for the negotiations to be conducted under the auspices of the World Trade Organization (WTO) and WTO Agreements. These objectives are designed to provide specific direction to U.S. negotiators.

The different levels of economic integration created, and the different number and diversity of countries involved, in various types of negotiations, create different contexts, interests and possibilities for each set of negotiations. Accordingly, the bill sets forth separately Congress' negotiating objectives for the WTO (section 2(b)), for the Free Trade Area of the Americas (section 2(c)), and for other regional and bilateral trade negotiations (section 2(d)).

Section 2(b) sets forth U.S. principal negotiating objectives for WTO negotiations.

Section 2(b)(1)—Trade in Agriculture—WTO

Section 2(b)(1) directs U.S. negotiators to obtain competitive opportunities for U.S. exports equivalent to those the United States affords foreign agricultural imports and to achieve more open trade in agricultural commodities. Specific congressional objectives in this area include:

- Reduce the agricultural tariffs actually applied, as well as the maximum allowable tariffs, placing priority on products that are subject to significantly higher tariffs in major producing countries and providing longer phase-in periods for tariff reductions on U.S. agricultural products that are particularly sensitive to imports;
- Enhance the transparency of a country's implementation of its tariff regimes and tighten the rules that regulate how a country can administer tariff rate quotas;
- Eliminate agricultural export subsidies;
- Eliminate or reduce trade-distorting domestic subsidies;

- Require countries with higher subsidy levels than the U.S. to match U.S. levels before agreeing to reduce or eliminate U.S. subsidies;
- Ensure that trade rules do not undermine bona fide U.S. agricultural programs like market development programs, food aid programs, and programs that support family farms and rural communities;
- Eliminate state trading enterprises, which have been used to distort trade in agriculture or, at minimum, adopt vigorous oversight mechanisms to ensure that they operate transparently;
- Eliminate practices that discriminate against perishable or seasonal agricultural products and develop a more effective import safeguard mechanism for these types of products;
- Consider whether negotiating partners have adhered to their current trade obligations, how previous trade agreements have affected the U.S. agricultural sector, and the extent to which countries have meaningfully opened up their agriculture markets in formulating U.S. positions; and
- Treat the negotiation of all WTO issues as a single undertaking to ensure that other countries do not have opportunities to delay progress on agriculture negotiations in the hopes of concluding agreement on other, possibly less difficult, issues.

Section 2(b)(2)—Trade in Services—WTO

Section 2(b)(2) directs U.S. WTO negotiators to further liberalize international trade in services, *e.g.,* financial services, consulting, media products, and telecommunications. The specific instructions focus on deepening and broadening the commitments in the WTO's General Agreement on Trade in Services (GATS). In the GATS, WTO members made specific commitments to allow freer trade in service industries. The specific objectives advanced by Congress include:

- Extend the GATS commitments to achieve the maximum liberalization in trade in services, particularly to allow businesses to deliver services through all modes of supply;
- Remove barriers that deny national treatment (*i.e.,* discriminate against foreign service providers) or unreasonably restrict the establishment or operation of foreign service suppliers;
- Reduce or eliminate the adverse effects of existing government measures on trade in services;
- Eliminate additional barriers to trade in services, including unreasonable or discriminatory licensing requirements, administration of cartels or toleration of anticompetitive activity and other methods of hindering trade in services;
- Grandfather existing concessions and liberalization commitments as new commitments are made and ensure that concessions that pre-dated the GATS commitments remain in effect;
- Strengthen the GATS obligations to ensure that countries regulate services and service suppliers in a transparent manner and in accordance with principles of due process.

- Oppose cultural exceptions to GATS obligations (*e.g.,* a requirement that television stations reserve a certain minimum percentage of their programming time for locally-produced items);
- Prevent discrimination against like services delivered via electronic means (*e.g.,* application services provided through in person servicing or remotely via the Internet);
- Pursue full market access and national treatment commitments for service sectors essential to electronic commerce; and
- Broaden and deepen the commitments countries have made relating to basic and value-added telecommunications services and financial services; for telecommunications, include strengthening obligations to ensure competitive and non-discriminatory access to public telecommunication networks and ISP and other value-added service providers and preventing anti-competitive behavior by major suppliers.

Action 2(b)(3)—Trade in Manufactured and Nonagricultural Goods—WTO

Section 2(b)(3) contains principal negotiating objectives for U.S. negotiators with respect to trade in manufactured and non-agricultural goods (essentially all non-agricultural goods). The specific objectives advanced by Congress are:

- Reduce bound tariff levels (maximum allowable tariffs) to eliminate disparities between the tariffs actually applied and the bound tariffs;
- In sectors where tariffs are approaching zero, negotiate agreements to eliminate duties;
- Eliminate tariff and non-tariff barriers in sectors where U.S. imposes no significant barriers to imports and foreign barriers are substantial;
- Eliminate or reduce tariffs on value-added products receiving unequal protection compared to the raw materials used to make those products (tariff inversions); and
- Eliminate other non-tariff barriers, including restrictions on access to distribution networks and information systems; unfair inspection processes; cartels or anti-competitive activity; unreasonable delegation of regulatory powers to private entities; unfair licensing requirements; and other unfair government acts that restrict market access.

Section 2(b)(4)—Trade in Civil Aircraft—WTO

Section 2(b)(4) contains principal negotiating objectives for trade in civil aircraft, specifically, those already approved by Congress in section 135(c) of the Uruguay Round Agreements Act (19 U.S.C. 3555(c)).

Section 2(b)(5)—Rules of Origin—WTO

Section 2(b)(5) contains principal negotiating objectives for rules of origin—the rules used to determine the origin of a good. These rules are relevant for country of origin labeling requirements, for certain preferential tariff arrangements, and for other reasons. U.S. negotiators are directed to complete an international agreement to

harmonize rules of origin for nonpreferential trade programs as envisioned by article 9 of the WTO's Agreement on Rules of Origin.

Section 2(b)(6)—Dispute Settlement—WTO

Section 2(b)(6) contains principal negotiating objectives for U.S. negotiators to pursue with respect to the settlement of trade disputes. Dispute settlement under the WTO rules has increased dramatically compared to dispute settlement under the previous GATT-based trade rules. It has become increasingly important to ensure that these rules operate effectively and transparently. The specific objectives advanced by Congress are:

- Improve enforcement of decisions for more prompt compliance;
- Strengthen rules related to evidence requests in proceedings;
- Pursue rules for the management of translation-related issues;
- Require that all government submissions be made public upon submission, with exceptions for business confidential and national security classified information;
- Require that meetings of dispute settlement bodies and transcripts of such meetings be open to the public, with procedures to accommodate business confidential and national security classified information;
- Establish rules to provide for submission of friend-of-the-court briefs, *e.g.,* by nongovernmental organizations, businesses, and unions;
- Strengthen rules to prevent conflicts of interest by panelists;
- Establish formal procedures for panels to seek advice from other international organizations, *e.g.,* the International Labor Organization; and
- Ensure application of the standard of review in the WTO Antidumping Agreement and clarify that this standard of review should apply to cases under the WTO Subsidies/CVD and Safeguards Agreements for reasons of logic and consistency with basic principles of administrative law and jurisprudence.

Section 2(b)(7)—Sanitary and Phytosanitary Measures—WTO

Section 2(b)(7) contains principal negotiating objectives for U.S. negotiators with respect to sanitary and phytosanitary (SPS) measures, *e.g.,* food health and safety standards. The specific objectives advanced by Congress are:

- Oppose reopening of the WTO's SPS Agreement.
- Reaffirm that the decision of a country not to adopt an international standard for the basis of an SPS measure does not in itself create a presumption of inconsistency with the SPS Agreement.
- Reaffirm that Members may take sanitary or phytosanitary measures where the relevant scientific evidence is insufficient, or conflicting, provided that the measure is taken in a manner consistent with the SPS Agreement.

Section 2(b)(8)—Technical Barriers to Trade—WTO

Section 2(b)(8) contains the principal negotiating objectives for U.S. negotiators with respect to technical barriers to trade, *e.g.,* unreasonable product standards. The specific objectives advanced by Congress are:

- Oppose reopening of the WTO TBT Agreement;
- Increase transparency in the preparation, adoption and application of labeling regulations and standards, recognizing the legitimate role of labeling that provides relevant information to consumers.

Section 2(b)(9)—Trade-Related Aspects of Intellectual Property Rights (IPR)—WTO

Section 2(b)(7) contains the principal negotiating objectives for U.S. negotiators regarding intellectual property rights. The WTO's Agreement on Trade-Related Intellectual Property Rights (TRIPs) created important new obligations on countries to respect and enforce intellectual property rights in their domestic law. The bill calls on U.S. negotiators to build upon TRIPs and address other issues that have emerged. The specific objectives advanced by Congress are:

- Oppose extension of the date by which countries must implement their TRIPs obligations;
- Oppose extension of the moratorium on "non-violation" complaints under TRIPs;
- Oppose any weakening of existing TRIPs obligations;
- Ensure that standards of protection and enforcement keep pace with technological developments, particularly on the Internet;
- Prevent misuse by industrialized countries of reference pricing classification systems as way to discriminate against innovative U.S. pharmaceutical products to the detriment of U.S. consumers;
- Clarify that under Article 31 of the TRIPs Agreement, WTO Members are able to adopt measures necessary to protect the public health and to respond to situations of national emergency or extreme urgency, including by taking actions that have the effect of increasing access to essential medicines;
- Encourage Members that take action under Article 31 to also implement policies that respond to all aspects of the public health problem or national emergency; and
- Encourage members of the Organization for Economic Cooperation and Development and the private sectors in such countries to work with other relevant international organizations to assist developing countries in all possible ways to increase access to essential medicines.

Section 2(b)(10)—Transparency—WTO

Section 2(b)(10) contains principal negotiating objectives for U.S. negotiators with respect to transparency. There are two components to transparency. First, there is transparency in domestic government regulation—a concept embodied in U.S. law through the Administrative Procedures Act and requirements of due process. Transparency in government regulation is an area increasingly

vital to U.S. workers, farmers and businesses seeking to export agricultural and manufactured products and services, particularly in service sectors like telecommunications and financial services. Second, there is transparency in the operation of the WTO. The bill addresses both of these components. The specific objectives advanced by Congress are:

- To conclude an Agreement on Transparency that would:

—Require that government laws, regulations and judicial decisions be made publicly available;

—Require adequate notice before amending existing rules or declaring new ones;

—Encourage governments to open rulemaking to public comment;

—Require that administrative proceedings in Member countries relating to any agreement be conducted so as to give persons from Member countries affected by such proceedings notice and opportunity to present their positions; and

—Require Members to establish judicial or administrative tribunals or procedures to review and correct final administrative actions on matters covered by any agreement, allowing parties to the proceeding an opportunity to present their positions.

- Improve public's understanding of and access to WTO system by:

—Maintaining and expanding official websites, and making meeting minutes and other documents publicly available; and

—Instituting regular meetings between WTO officials and representatives of non-governmental organizations, businesses, labor unions, consumer groups and other representatives of civil society.

Section 2(b)(11)—Government Procurement—WTO

Section 2(b)(11) contains principal negotiating objectives for U.S. negotiators with respect to rules for government procurement. The WTO includes an Agreement on Government Procurement, but this is one of the "plurilateral" agreements, meaning that not all WTO Members are bound by the Agreement. The bill calls for U.S. negotiators to build upon the existing agreement. The specific objectives advanced by Congress are:

- Expand membership of agreement;
- Conclude WTO agreement on transparency in government procurement; and
- Promote global use of electronic publication of government procurement information to make it easier for U.S. firms to find out about bidding opportunities abroad.

Section 2(b)(12)—Trade Remedy Laws—WTO

Section 2(b)(12) contains principal negotiating objectives for U.S. negotiators with respect to the trade remedy laws—antidumping, anti-subsidies/countervailing duty, and import surge safeguards remedies. These trade remedy laws and the related WTO agreements, establish fundamental rules for the trading system and help ensure continued support for trade liberalization. Increasingly, however, these trade remedies have come under attack in the WTO

and through trade negotiations. The bill would make clear to our negotiating partners that Congress will not accept agreements that weaken trade remedies. The specific objectives advanced by Congress are:

- Preserve ability of U.S. to enforce trade laws strongly and do not enter into agreements that weaken the effectiveness of domestic and international rules on unfair trade or import surges; and
- Eliminate the underlying causes of unfair trade practices and import surges, including closed markets, subsidization and anti-competitive practices that create and sustain excess capacity.

Section 2(b)(13)—Trade and Labor Market Standards—WTO

Section 2(b)(13) contains principal negotiating objectives for U.S. negotiators with respect to the critical area of trade and labor market standards. The bill sets forth an objective to achieve a framework of enforceable multilateral rules as soon as practicable that leads to the adoption and enforcement of the core, internationally-recognized labor standards in the WTO. The specific objectives advanced by Congress towards that objective are:

- Establish promptly within the WTO a working group on trade and labor issues to explore the linkage between international trade and investment and internationally recognized workers rights (as required by section 131 of the Uruguay Round Agreements Act) and develop methods to coordinate work program with ILO;
- Update the exceptions to trade (article XX of the GATT 1994) and services (article XIV of GATS) rules so that countries could not be penalized under WTO rules for taking actions to carry out ILO recommendations against countries that have persistently violated labor rights, *e.g.,* the ILO recommendation with respect to Burma;
- Include review of labor standards as part of the WTO's Trade Policy Review Mechanism (TPRM). (The TPRM is the WTO's mechanism for providing regular reviews of each country's compliance with its WTO obligations); and
- Establish a working relationship between the WTO and ILO.

Section 2(b)(14)—Trade and the Environment—WTO

Section 2(b)(14) contains principal negotiating objectives for U.S. negotiators with respect to the critical area of trade and the environment. The specific objectives advanced by Congress are:

- Strengthen role of the WTO's Committee on Trade and Environment (CTE), providing the CTE with authority to review and comment on negotiations and review potential effects of liberalization of natural resource products;
- Clarify the environmental exceptions already in the WTO—GATT article XX(b), which allows countries to take measures necessary to protect human, animal and plant life or health, and GATT article XX(g), which allows countries to take measures to conserve exhaustible natural resources;

- Add an exception to the GATT and the GATS so that, where both parties to a dispute have accepted the obligations of a multilateral environmental agreement (MEA), a country could not be penalized under trade rules for taking action in accordance with the MEA;
- Add to the GATS the GATT article XX(g) exception, which allows countries to take measures to conserve exhaustible natural resources, to the GATS. The GATS already includes an exception equivalent to GATT article XX(b);
- Give priority to trade liberalization measures promoting sustainable development;
- Reduce subsidies in natural resource sectors and export subsidies in agriculture; and
- Improve coordination between WTO and international environmental organizations in formation of multilaterally accepted principles for sustainable development.

Section 2(b)(15)—Institution Building—WTO

Section 2(b)(15) contains principal negotiating objectives for U.S. negotiators with respect to institution building. The specific objectives advanced by Congress are:

- Strengthen institutional mechanisms facilitating dialogue and activities between WTO and non-governmental organizations;
- Increase transparency by improving internal communication between the Secretariat and the Members;
- Improve coordination between WTO and other international organizations, including the ILO and the United Nations Environment Programme, to increase effectiveness of technical assistance programs;
- Improve capability of WTO to provide technical assistance to developing countries, to promote the rule of law, and to assist developing countries with efforts to meet their WTO obligations.

Section 2(b)(16)—Trade and Investment—WTO

Section 2(b)(16) contains principal negotiating objectives for U.S. negotiators with respect to trade and investment. The WTO currently includes the Agreement on Trade-Related Investment Measures (TRIMs), which does not contain investor-state dispute settlement. The specific objectives advanced by Congress are:

- Pursue further reduction of trade-distorting investment measures, including restrictions on the free transfer of funds related to investment, discriminatory measures, forced technology transfers, performance requirements, forced licensing requirements, and other unreasonable barriers to investment; and
- Strengthen enforcement of and compliance with TRIMs.

Section 2(b)(17)—Electronic Commerce—WTO

Section 2(b)(17) contains principal negotiating objectives for U.S. negotiators with respect to electronic commerce. Rapid changes in technology and business models on the Internet have stretched existing rules and created new challenges. The continued growth of

e-commerce requires countries to provide a favorable regulatory and trading environment. The specific objectives advanced by Congress are:

- Make permanent and binding the moratorium on customs duties on electronic transmissions;
- Ensure that current obligations, rules, disciplines, and commitments under the WTO apply to electronically-delivered goods and services;
- Ensure that the classification of electronically-delivered goods and services provides the most liberal trade treatment possible;
- Ensure that electronically-delivered goods and services receive no less favorable treatment under trade rules than like products delivered in physical form;
- Ensure that governments refrain from implementing trade-related measures that impede electronic commerce;
- Obtain commitments that any domestic regulations affecting electronic commerce are non-discriminatory, transparent, and consistent with promoting an open electronic market;
- Pursue a pro-competitive regulatory environment for basic and value-added telecommunications services abroad since these services are vital to electronic commerce; and
- Educate WTO Members about benefits of electronic commerce and work to liberalize trade barriers that directly impede electronic commerce.

Section 2(b)(18)—Developing Countries—WTO

Section 2(b)(18) contains principal negotiating objectives for U.S. negotiators with respect to developing countries. The bill recognizes that developing countries may have special needs. The specific objectives advanced by Congress are:

- Enter trade agreements that mutually promote economic growth of developing countries and U.S.;
- Ensure appropriate phase-in periods with respect to obligations of least-developed countries;
- Coordinate with the World Bank, IMF, and other international institutions to provide debt relief and other assistance to promote the rule of law and sound and sustainable development; and
- Accelerate tariff reductions that benefit least-developed countries.

Section 2(b)(19)—Current Account Surpluses—WTO

Section 2(b)(19) contains principal negotiating objectives for U.S. negotiators with respect to current account surpluses. This objective seeks to address countries that maintain large, persistent trade balance surpluses because their markets are relatively closed to imports. The specific objectives advanced by Congress are:

- Develop rules to address large and persistent global account imbalances of countries to impose responsibility on them to undertake policy changes to restore equilibrium.

Section 2(b)(20)—Trade and Monetary Coordination—WTO

Section 2(b)(20) contains principal negotiating objectives for U.S. negotiators with respect to trade and monetary coordination. The specific objectives advanced by Congress are:

- Foster stability in international currency markets and develop mechanisms to protect against trade consequences of unanticipated currency movements.

Section 2(b)(21)—Access to High Technology—WTO

Section 2(b)(21) contains principal negotiating objectives for U.S. negotiators with respect to access to high technology. As a leader in information technology (IT), the United States should push hard for liberalization in this sector. The specific objectives advanced by Congress are:

- Obtain elimination or reduction of foreign barriers to access by US persons to foreign-developed technology;
- Seek elimination of tariffs on all IT products, infrastructure equipment, scientific instruments and medical equipment;
- Pursue reduction of foreign barriers to US high-tech products;
- Enforce and promote the TBT Agreement to ensure that technical standards and regulations do not serve as barriers to trade in IT and communications products; and
- Require all WTO Members to sign the Information Technology Agreement (ITA), which eliminates tariffs on a wide variety of information technology products. Expand and update the products covered by the ITA.

Section 2(b)(22)—Corruption—WTO

Section 2(b)(22) contains principal negotiating objectives for U.S. negotiators with respect to corruption. Corruption distorts markets and creates inefficiencies. U.S. businesses often lose out when corruption interferes with commercial transactions abroad. Accordingly, trade rules should address the impact that corruption may have on trade. The specific objectives advanced by Congress are:

- Establish standards at least as restrictive as those in the Foreign Corrupt Practices Act of 1977 and establish mechanisms to ensure enforcement of such standards.

Section 2(b)(23)—Implementation of Existing Commitments and Improvement of the WTO and WTO agreements—WTO

Section 2(b)(23) contains principal negotiating objectives for U.S. WTO negotiators with respect to implementation of the existing WTO commitments and improvement of the WTO system. The specific objectives advanced by Congress are:

- Ensure compliance of Members with existing obligations and under existing timetables;
- Strengthen the capacity of the WTO's Trade Policy Review Mechanism (a WTO device that provides regular reviews of each country's compliance with its WTO obligations) to review Member implementation;
- Pursue diplomatic and dispute settlement efforts that promote compliance; and

• Extend coverage of WTO Agreements to products, sectors, and conditions of trade not adequately covered.

Section 2(c)—Principal Negotiating Objectives Under FTAA

Section 2(c) contains the principal negotiating objectives for the Free Trade Area of the Americas (FTAA) negotiations. The FTAA is likely to accelerate substantially the economic integration of the economies of the Western hemisphere. As is typically the case in negotiations designed to lead to a free trade agreement, the United States has been pushing for deep market-opening and other commitments from the other FTAA countries. U.S. objectives need to account for the dynamics of these *free trade* negotiations, as well as for the fact that many FTAA countries have different economic structures, including labor market and environmental standards, than the United States, and these differences may have effects on trade and investment flows. In addition, negotiating goals need to recognize that FTAA negotiations do not include certain countries whose policies or practices are key to U.S. goals in the WTO: *e.g.,* members of the European Union and export subsidies issues. Accordingly, U.S. objectives with respect to a number of important issues vary significantly.

Section 2(c)(1)—Trade in Agriculture—FTAA

Section 2(c)(1) contains principal negotiating objectives for U.S. negotiators with respect to trade in agriculture. Congress would direct the negotiators to obtain competitive opportunities for U.S. exports in FTAA countries equivalent to those the United States affords FTAA agricultural imports and to achieve more open trade in agricultural commodities. The specific objectives advanced by Congress are the same as for the WTO with noted *exceptions*:

• *Excludes* language: (1) to eliminate export subsidies, (2) reduce or eliminate domestic supports, (3) the preservation of market development or food aid programs, which are not at issue in the FTAA, (4) ensure agriculture commitments for countries acceding to the WTO, or (5) objective to treat all negotiations as single undertaking. Non-inclusive of objectives with respect to elimination or reduction of agricultural subsides recognizes that pursuing this objective in the FTAA (which does not include the heavily subsidizing European Union), without ensuring at a minimum that a satisfactory agreement is first undertaken in the WTO, is tantamount to unilateral disarmament by the United States.

• *Also includes,* establish mechanisms to prevent the export of products from subsidized, non-FTAA countries (*e.g.,* the EU) to FTAA countries. This objective complements the omission of an objective related to elimination of export subsides, noted above.

• *Also includes,* eliminate technology-based discrimination against products and ensure that negotiated rules do not weaken rights and obligations under the WTO's Agreement on the Application of Sanitary and Phytosanitary Measures. This addition is needed to provide clear guidance with respect to the establishment of SPS standards in the FTAA.

Section 2(c)(2)—Trade in Services—FTAA

Section 2(c)(2) contains principal negotiating objectives for trade in services. Unlike the WTO, there is no existing services agreement in the FTAA. Therefore, U.S. negotiators will be able to ensure that maximum liberalization is incorporated into FTAA services trade from the inception of the agreement. The specific objectives advanced by Congress are the same as for the WTO with noted *exceptions*:

- *Excludes* language pertaining to the extension of GATS commitments;
- *Excludes* language relating to the adverse effects of existing government measures, because that language is addressed to deficiencies in the GATS;
- *Modifies* objectives referring to GATS to make them applicable to FTAA negotiations;
- *Also includes,* utilize "negative list" approach, whereby commitments will cover all services and modes of supply unless expressly excluded—to ensure maximum liberalization;
- *Also includes,* additional language in principal negotiating statement specifying "in services in all modes of supply and across the broadest range of service sectors."

Section 2(c)(3)—Trade in Manufactured and Non-agricultural Goods—FTAA

Section 2(c)(3) contains principal negotiating objectives for trade in manufactured and non-agricultural goods. U.S. objectives for trade in manufactured and agricultural goods are identical in the WTO and the FTAA. Accordingly, the objectives here are the same as for the WTO.

Section 2(c)(4)—Dispute Settlement—FTAA

Section 2(c)(4) contains principal negotiating objectives for dispute settlement. Unlike the WTO, the FTAA does not have an existing dispute settlement mechanism, so the negotiating objectives in this area seek to ensure that the dispute settlement mechanism that is created for the FTAA will address problems that have arisen in WTO dispute settlement and will be expeditious and effective. The specific objectives advanced by Congress are the same as for the WTO with noted *exceptions*:

- *Excludes* objective related to Article 17.6 of Antidumping Agreement—there should be no separate antidumping agreement in the FTAA, so there is no need to address this issue;
- *Modifies* objectives relating to WTO dispute settlement system to make them applicable to the FTAA;
- *Also includes,* provide for a single, effective and expeditious mechanism for dispute settlement and a single set of procedures applicable to *all* FTAA agreements—to ensure that all FTAA obligations, including those on labor and environment, may be enforced in the same way;
- *Also includes,* ensure that dispute settlement system provides in all contexts, for the use of all remedies that are demonstrably effective to promote compliance—to ensure that all remedies are available to enforce all FTAA obligations, includ-

ing those on labor and environment, and to ensure that the remedies provided have demonstrated effectiveness.

Section 2(c)(5)—Trade-related Aspects of Intellectual Property Rights (IPR)—FTAA

Section 2(c)(5) contains principal negotiating objectives for trade-related aspects of intellectual property rights (IPR). Unlike the WTO, the FTAA does not have an existing agreement on intellectual property. The specific objectives advanced by Congress are the same as for the WTO with noted *exceptions*:

- *Excludes* certain objectives specific to the implementation and operation of the WTO TRIPs Agreement;
- *Modifies* other objectives relating to WTO TRIPs Agreement to make them applicable to the FTAA;
- *Also includes,* ensure that rules provide standard of protection for IPR similar to that found in U.S. law—which would be greater than the protections offered by the WTO TRIPs Agreement;
- *Also includes,* provide strong IPR protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property;
- *Also includes,* prevent discrimination with respect to availability, acquisition, scope, maintenance, use, and enforcement of IPR.
- *Also includes,* provide strong enforcement of IPR;
- *Also includes,* secure fair, equitable and non-discriminatory market access opportunities for United States persons that rely upon intellectual property protection.

Section 2(c)(6)—Transparency—FTAA

Section 2(c)(6) contains principal negotiating objectives for transparency. U.S. objectives for transparency are essentially identical in the WTO and the FTAA. Accordingly, the objectives here are essentially the same as for the WTO, with a few modifications accounting for the fact that the administrative structure of the FTAA has yet to be established.

Section 2(c)(7)—Government Procurement—FTAA

Section 2(c)(7) contains principal negotiating objectives for government procurement. U.S. objectives for government procurement are identical in the WTO and the FTAA. Accordingly, the objectives here are the same as for the WTO.

Section 2(c)(8)—Trade Remedy Laws—FTAA

Section 2(c)(8) contains principal negotiating objectives for trade remedy laws. U.S. objectives for trade remedy laws are identical in the WTO and the FTAA—in both forums, the United States should not enter into agreements that lessen in any respect the effectiveness of the trade laws and should seek to eliminate the causes of unfair trade and import surges. Accordingly, the objectives here are the same as for the WTO.

Section 2(c)(9)—Trade and Labor Market Standards—FTAA

Section 2(c)(9) contains principal negotiating objectives for trade and labor market standards. Many of the FTAA countries have very different economic structures, including labor market standards, than the United States. These differences may have affects on trade and investment flows among the FTAA countries, especially since the FTAA is likely to accelerate economic integration among the economies of the Western hemisphere. Accordingly, the objectives differ considerably from those in the WTO:

- Include enforceable rules that provide for the adoption and enforcement of the International Labor Organization's (ILO) five core labor standards (rights to associate and to bargain collectively, bans on discrimination, child labor, forced labor).
- Establish as the trigger for enforcement of the above obligation

(i) a country's failure to effectively enforce its domestic labor standards in a manner affecting trade or investment; or

(ii) a country's waiver or derogation from its domestic labor standards for the purpose of attracting investment, inhibiting exports, or otherwise gaining a competitive advantage;

recognizing that FTAA members retain discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters and to adopt or modify their laws consistent with the ILO's core labor standards;

- Provide for phased-in compliance as appropriate for least-developed countries;
- Create an FTAA work program to provide technical assistance and positive incentives to FTAA members to aid them in improving their labor laws;
- Provide for regular review of each country's adherence to its labor laws;
- Ensure that the FTAA includes exceptions to allow countries to prohibit products produced by prison labor and child labor and to ensure that countries would not be penalized for taking actions to carry out ILO recommendations, *e.g.,* the ILO recommendation with respect to Burma.

Section 2(c)(10)—Trade and the Environment—FTAA

Section 2(c)(10) contains principal negotiating objectives for trade and the environment. Many of the FTAA countries have different economic structures, including environmental standards, than the United States. These differences may have effects on trade and investment flows between the FTAA countries, especially since the FTAA is likely to accelerate economic integration among the economies of the Western hemisphere. Accordingly, the objectives differ considerably from those in the WTO:

- Obtain rules that provide for each country to enforce its domestic environmental laws relating to:

(i) the prevention, abatement, or control of the release, discharge, or emission of pollutants or environmental contaminants;

(ii) the control of environmentally hazardous or toxic chemicals, substances, materials and wastes, and the dissemination of information related thereto; and

(iii) the protection of wild flora or fauna, including endangered species, their habitats, and specially protected natural areas, in the territory of FTAA member countries;

• Establish as the trigger for enforcement of the above obligation

(i) a country's failure to effectively enforce its domestic environmental laws in a manner affecting trade or investment; or

(ii) a country's waiver or derogation from its domestic environmental laws for the purpose of attracting investment, inhibiting exports, or otherwise gaining a competitive advantage;

recognizing that FTAA members retain discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters and to adopt or modify their environmental laws;

• Provide for phased-in compliance as appropriate for least-developed countries;

• Create an FTAA work program to provide technical assistance and positive incentives to FTAA members to aid them in improving their environmental laws;

• Provide for regular review of each country's adherence to its environmental laws;

• Ensure that the FTAA includes exceptions to allow countries to take measures to provide effective protection for human, animal, or plant life or health; to take measures to conserve exhaustible natural resources; and to take measures in accordance with obligations under multilateral environmental agreements accepted by both parties to a dispute;

• Give priority to trade liberalization measures that promote sustainable development.

Section 2(c)(11)—Institution Building—FTAA

Section 2(c)(11) contains principal negotiating objectives for institution building. The objectives here are similar to those for the WTO. The minor differences in objectives are due to the fact that WTO already has an institutional structure, while the FTAA does not.

Section 2(c)(12)—Trade and Investment—FTAA

Section 2(c)(12) contains principal negotiating objectives for trade and investment. Unlike the WTO, the FTAA does not have an existing agreement on investment. Drafts of the FTAA text indicate that the United States is pursuing an investment agreement modeled on Chapter 11 of the North American Free Trade Agreement (NAFTA), which includes a right for investors to bring claims directly against a state and is otherwise a substantially different agreement from the limited WTO TRIMs Agreement. The objectives recognize the value of effective investor protections, while also recognizing a concern that has arisen under NAFTA Chapter 11 that investor protections written too broadly could afford greater rights to foreign investors than those afforded under U.S. domestic law, and could jeopardize valid environmental and other regulations. Accordingly, the objectives differ considerably from those in the WTO:

• Reduce or eliminate barriers to investment by securing for investors the rights that would be available under U.S. domes-

tic law, but no greater rights—this provision ensures effective investment protections while also ensuring that foreign investors will receive no greater rights in the U.S. than U.S. investors;

- Ensure national and most-favored nation (*i.e.,* non-discriminatory) treatment for U.S. investors and investments;
- Free the transfer of funds relating to investments;
- Reduce or eliminate performance requirements, forced technology transfers, and other unreasonable barriers to investment;
- Establish standards for expropriation consistent with U.S. law, including by specifically incorporating the U.S. legal principle that a "mere diminution in value" does not constitute an expropriation;
- Codify the recent clarifications made by the NAFTA governments to the "minimum standard of treatment" investment rules, which were made to correct erroneous decisions by NAFTA arbitration panels;
- Ensure through rules in the text of the agreement that the investor protections do not interfere with legitimate domestic regulations (*e.g.,* domestic health, safety, and environmental regulations), including by specifically clarifying that the agreement standards do not require use of the "least trade restrictive" alternative—the specific clarification corrects an erroneous decision by a NAFTA arbitration panel;
- Provide an exception from investment rules for actions taken in accordance with obligations under a multilateral environmental agreement;
- Provide meaningful procedures for resolving investment disputes;
- Provide an independent, non-political approval process before an investor may bring a claim directly against a state in order to screen out frivolous complaints;
- Provide a standing appellate mechanism to correct erroneous interpretations of law;
- Ensure the fullest transparency in investment dispute settlement mechanisms.

Section 2(c)(13)—Electronic Commerce—FTAA

Section 2(c)(13) contains principal negotiating objectives for electronic commerce. U.S. objectives for electronic commerce are essentially identical in the WTO and the FTAA. The minor differences in objectives are due to the fact that the WTO already has agreements and obligations applicable to e-commerce, while the FTAA does not.

Section 2(c)(14)—Developing Countries—FTAA

Section 2(c)(14) contains principal negotiating objectives for developing countries. U.S. objectives for developing countries are identical in the WTO and the FTAA. Accordingly, the objectives here are the same as for the WTO.

Section 2(c)(15)—Trade and Monetary Coordination—FTAA

Section 2(c)(15) contains principal negotiating objectives for trade and monetary coordination. U.S. objectives for trade and monetary coordination are identical in the WTO and the FTAA. Accordingly, the objectives here are the same as for the WTO.

Section 2(c)(16)—Access to High Technology—FTAA

Section 2(c)(16) contains principal negotiating objectives for access to high technology. U.S. objectives for access to high technology are identical in the WTO and the FTAA. Accordingly, the objectives here are the same as for the WTO.

Section 2(c)(17)—Corruption—FTAA

Section 2(c)(17) contains principal negotiating objectives for corruption. U.S. objectives for corruption are identical in the WTO and the FTAA. Accordingly, the objectives here are the same as for the WTO.

Section 3—Congressional Trade Advisors

The Act enlarges the membership and strengthens the role of the statutorily-created congressional trade advisors. Under existing law (section 161 of the Trade Act of 1974), the Speaker of the House and the President Pro Tem of the Senate appoint five Members from the Committees on Ways and Means and Finance, respectively, to serve as congressional advisors on trade policy and trade negotiations. These five Ways and Means and five Finance Members are mandatory appointments, and must be made at the start of each Congress. In addition, the statute allows the Speaker and President Pro Tem to select additional members for designation as congressional advisors on specific issues. The additional appointments are discretionary.

Section 3 of the Act expands the mandatory appointments to the congressional trade advisors to include two Members each from the House Agriculture Committee and Senate Agriculture, Nutrition and Forestry Committees, and two additional Members from each House. The Act preserves the Speaker's ability under current law to appoint additional advisors (hereafter "discretionary advisors"). The Act retains the party ratio set forth in existing law (the party in control of a chamber has one more appointment than the minority party).

The Act also strengthens the role of the congressional trade advisors in a number of ways. First, the Act requires the President to consult with them at specified points in a negotiation, such as in formulating negotiating objectives for new negotiations (section 5), during the course of negotiations (section 6), and prior to entering into an agreement (section 7). Second, under section 7 of the Act, a majority of the mandatory must concur with the President's certification that the agreement substantially achieves the principal negotiating objectives identified in the Act or developed in consultation with Congress for the related implementing bill to be covered by fast track procedures. Third, section 5 of the Act requires the congressional trade advisors to submit a report providing their views regarding extension of fast track authority if the President requests extension beyond the initial five-year period. Finally, sec-

tion 3 of the Act allows the statutory trade advisors to serve as official advisors to U.S. delegations in dispute settlement proceedings.

Section 4—Trade Agreements Authority

Section 4 provides the President with two types of authority: (1) the authority to proclaim certain duty modifications without Congressional approval; and (2) the authority to enter into trade agreements with foreign countries to eliminate trade barriers, and to secure fast track coverage for implementing bills related to agreements covering the elimination of such barriers.

With respect to duty modifications, section 4(a) provides the President with the authority to proclaim certain duty modifications required by a trade agreement without additional legislation. This authority, which tracks the 1988 fast track grant, is limited by the following. First, for duty rates that exceed 5 percent ad valorem, the President is not authorized to reduce any rate of duty to a rate less than 50 percent of the rate of duty in effect on the date of enactment. Rates at or below 5 percent ad valorem can be reduced to zero. Second, no duty reduction done by proclamation may exceed more than 3 percent per year or one-tenth of the total reduction, whichever is greater, except for products for which there is no U.S. production. These limitations do not apply to reciprocal agreements to eliminate or harmonize duties negotiated under the WTO or interim agreements leading to the formation of a regional free trade agreement.

With respect to trade barriers, section 4(b) authorizes the President to enter into a trade agreement with a foreign country if: (1) he determines that any duty or other import restriction or any other barrier to or distortion of international trade unduly burdens or restricts the foreign trade of the United States or adversely affects the U.S. economy, or the imposition of any such barrier or distortion is likely to result in such a burden, restriction or effect; (2) the agreement provides for the reduction or elimination of such barrier or other distortion or prohibits or limits the imposition of such a barrier or other distortion; (3) the agreement substantially achieves the identified negotiating objectives; and (4) the President meets other conditions set forth in the Act.

Section 4 also defines what may be included in an implementing bill submitted under fast track procedures. Under section 4(b), an implementing bill may include only: (1) provisions approving the trade agreement and the statement of administrative action; (2) if changes to existing law are required to implement the agreement, provisions necessary or appropriate to implementation; and (3) provisions to provide trade adjustment assistance to workers, firms and communities.

The Act extends fast track authority to the President for five years. Fast track authority may be extended for two additional years, if the President requests an extension, and if neither House of Congress disapproves of the extension request. Procedures for consideration of resolutions disapproving of the President's extension request are set forth in section 4(c), and largely track the procedures set forth in the 1988 Act.

Section 5—Commencement of Negotiations

Section 5 establishes procedural requirements for new trade negotiations initiated during the term of the Act for which the Administration is seeking fast track procedures. Section 5 applies only to *new* negotiations—section 5 does not apply to negotiations in the WTO and the FTAA (for which negotiating objectives have been identified in the Act), or negotiations with Singapore and Chile (which are on-going). Section 5 requires the President to develop with Congress the negotiating objectives to be pursued in a new negotiation, and establishes an opportunity for Congress to disapprove of new negotiations involving more than one foreign country.

With respect to development of negotiating objectives, section 5(b) provides that at least 90 days prior to initiation of negotiations, the President must both notify Congress of his intent to negotiate, and submit proposed negotiating objectives. Between notification and the start of the negotiations, the Act directs the President to work with the committees of jurisdiction and the congressional trade advisors to develop the specific negotiating objectives to be pursued, and in the case of negotiations involving agriculture, to make certain evaluations concerning foreign tariff barriers.

With respect to the role of Congress, section 5 creates a legislative mechanism for Congress to deny fast track protections to new trade negotiations involving more than one foreign country (*e.g.,* new regional negotiations). Specifically, under section 5(c), fast track protections are denied to such new trade negotiations if both Houses of Congress pass a resolution of disapproval during the 90–day period between notification of intent to negotiate, and initiation of negotiations. Resolutions under section 5(c) are privileged (*i.e.,* automatic committee discharge, mandatory floor consideration, and time-limited debate, as set forth in section 152 (c), (d), and (e) of the Trade Act of 1974).

Section 6—Congressional Participation During Negotiations

Section 6 of the Act strengthens and expands the congressional role during the course of trade negotiations by: (1) creating a more active oversight role for the committees of jurisdiction and the congressional trade advisors; (2) creating the opportunity for periodic congressional review of on-going negotiations; (3) requiring the President to examine and report to the Congress on specified issues during the course of negotiations; and (4) establishing reporting requirements and other procedures for the President to meet prior to entering into an agreement.

Section 6(a) requires the President to consult closely and on a timely basis with the committees of jurisdiction and the congressional trade advisors during the course of negotiations. In addition, section 6(b) requires the USTR to develop, in consultation with the chairs and ranking members of the Ways and Means and Finance Committees and the trade advisors, detailed guidelines for briefing committees and the trade advisors during negotiations.

Section 6(c) creates an opportunity for the full Congress to review periodically the course of on-going trade negotiations, and to revoke fast track authority for a negotiation. Specifically, section 6(c) creates a mechanism for a sizeable minority of Members in the

House or Senate to bring to the floor a privileged resolution revoking fast track protections for a trade negotiation, or set of negotiations (*i.e.,* more than one negotiation may be named in the resolution). Privileged resolutions are subject to automatic committee discharge, and mandatory floor consideration, and gain privileged status if co-sponsored by 145 Members in the House, or, in the Senate, if co-sponsored by 34 Senators. For fast track procedures to be revoked for that agreement, both the House and Senate must pass a disapproval resolution naming the same agreement within 120 days. However, the House and Senate resolutions need not be identical. Only one resolution in each House may gain privileged status per Congress.

Disapproval resolutions that do not have the requisite number of cosponsors, or that are introduced after the first privileged resolution, are considered under normal procedures (*i.e.,* must be reported by Ways and Means in the House, and Finance in the Senate, and are not entitled to automatic floor consideration, unless subject to a discharge petition).

Section 6(d) codifies an existing Executive Order mandating environmental assessments for all new trade agreements. Section 6(d) improves the Executive Order by mandating that the USTR and CEQ identify in the assessment presented to Congress: (1) the environmental impacts of trade agreements; (2) ways to minimize adverse impacts and maximize positive ones; and (3) how USTR incorporated the result of the assessment in developing U.S. negotiating positions. Section 6(d) also codifies the advisory committee on trade and environment (the Trade and Environmental Policy Advisory Committee).

Section 6(e) requires the USTR and the Department of Labor to assess and report on the impact of new trade agreements on workers, and to develop proposals to mitigate adverse impacts. Section 6(e) also codifies the advisory committee on trade and labor (the Labor Advisory Committee).

Section 6(f) requires the USTR to notify Congress at least 90 days before entering into a trade agreement of language in an agreement that could affect U.S. trade laws, or U.S. rights and obligations under the WTO safeguards, antidumping and countervailing duty agreements.

Section 6(g) requires the President to report to Congress at least 90 days before entering into a trade agreement that includes an investor-state dispute settlement mechanism on the operation of the dispute settlement mechanism, including how the agreement does not impair a host state's police powers, including its regulatory authority.

Section 6(h) requires the President, prior to signing a trade agreement, to consult with the relevant committees of jurisdiction and the congressional trade advisors on the nature of the agreement, how and to what extent the agreement will achieve the applicable purposes, policies, and objectives set forth in the Act, and the implementation of the agreement, including the impact on U.S. laws.

Section 6(i) requires the Advisory Committee for Trade Policy and Negotiations to provide a report on the trade agreement no

later than 30 days after the President notifies Congress of his intent to sign the agreement.

Section 6(j) requires the U.S. International Trade Commission to provide an assessment of the trade agreement on the U.S. economy as a whole, and on specific sectors, no later than 90 days after the President signs the agreement.

Section 7—Implementation of Trade Agreements

Section 7 governs Congressional consideration of a signed trade agreement and the accompanying implementing legislation.

The primary innovation in section 7 is the requirement that the President certify that an agreement substantially achieves the identified negotiating objectives prior to signing the agreement, and that such certification be agreed to by the congressional trade advisors for the related implementing bill to be covered by fast track procedures. Specifically, under section 7 the President is required, at least 120 days before signing a trade agreement, to notify Congress of his intent to enter into the agreement. No later than 30 days thereafter, the President must also present to Congress a statement certifying that the agreement substantially achieves the negotiating objectives identified for the negotiation.

After the President submits his certification to Congress, the congressional trade advisors have 30 days to review the draft agreement and the President's certification, and make an independent assessment of whether the agreement substantially achieves the principal negotiating objectives. If a majority of the congressional trade advisors concurs with the President's certification, the procedures under section 151 of the Trade Act of 1974 (fast track procedures) apply to the related implementing legislation. (The procedures under section 151 of the Trade Act of 1974 require Congressional action on qualifying implementing bills no later than 90 days after formal submission of the agreement and the draft implementing legislation. Section 151 requires Congressional consideration without amendment.)

The remainder of section 7 largely tracks the procedures in the 1988 Act. Specifically, within 60 days of entering into the agreement, the President is required to submit a list of changes to existing laws required to bring the United States into compliance with the agreement. After signing the agreement, the President is required to submit formally the agreement, the draft implementing legislation, a statement of administrative action, and additional supporting information. The supporting information includes: (1) an explanation as to how the implementing legislation and the statement of administrative action change existing law; (2) a statement asserting that the agreement substantially achieves the applicable purposes, policies and objectives of the fast track bill, and explaining how and to what extent the agreement substantially achieves the applicable purposes, policies and objectives of the Act; and (3) a statement explaining why the implementing bill and statement of administrative action is required or appropriate to carry out the agreement.

The President may submit these documents at any time after signing the agreement. The committees of jurisdiction are expected to conduct an informal markup of the implementing legislation be-

tween the time the President enters into the agreement, and before he formally submits it, and the proposed implementing legislation.

Section 8—Treatment of Certain Trade Agreements

Section 8 exempts specific trade agreements from the Act's pre-negotiation notification requirements and review. The exempted negotiations are: (1) the WTO and FTAA negotiations, because negotiating objectives are identified in the fast track legislation; and (2) negotiations with Chile and Singapore, because the negotiations are on-going, and are well along toward completion. Section 8 also modifies deadlines for certain reports on the exempted agreements.

Section 9—Additional Reports and Studies

Section 9 requires the President to submit a report on trade-restrictive practices of U.S. trading partners, including anti-competitive practices by private entities promoted, enabled or tolerated by a foreign government. Section 9 also requires the USTR to provide Congress with an annual report on exchange rate fluctuations.

Section 10—Additional Implementation and Enforcement Requirements

Section 10 requires the President to submit an enforcement plan with each signed trade agreement. The plan must indicate whether additional personnel and equipment are necessary for the agencies charged with enforcement of the agreement to carry out their responsibilities. If additional resources are necessary, the President must include a request for such resources in his next budget submission.

CHARLES B. RANGEL.
MICHAEL R. MCNULTY.
ROBERT T. MATSUI.
SANDER LEVIN.
WILLIAM J. COYNE.
XAVIER BECERRA.

DISSENTING VIEWS ON THE THOMAS FAST-TRACK BILL

Recently, Ambassador Zoellick joined with his ministerial colleagues from Canada and Mexico to issue an interpretation of some NAFTA Chapter 11 investment provisions. While we appreciate this effort, which acknowledges that changes in the Chapter 11 model are needed, it is far short of reform. We do not believe that these interpretations address many of the most fundamental and critical problems with the Chapter 11 rules, nor does HR 3005.

Given the serious problems that we believe exist in NAFTA's Chapter 11 on investment, we believe that the U.S. position on investment must involve a substantial revision of the Chapter 11 model. NAFTA's investment provisions have opened the door to a number of unexpected legal challenges brought before international tribunals by foreign companies seeking financial compensation from governments. Many of these challenges have been brought on the grounds that foreign investors must be compensated when regulation entirely within the scope of traditional governmental authority over the environment, health and safety or government purchasing threatens their business interests.

Under the vague and overly broad language in the substantive provisions of Chapter 11, the actions against the United States could result in outcomes that would not be possible if the challenges were brought in domestic courts, thereby granting to foreign investors greater rights than those that are available to U.S. citizens. HR 3005 does nothing to change this skewed system against American citizens and businesses.

Moreover, challenges under Chapter 11 are conducted before tribunals whose proceedings are not open to the public, whose rulings are not required to follow any judicial precedent, and whose decisions are not subject to any standard appeals process. Further, there is no diplomatic check or screen, such as approval from a national government, before private entities can bring these cases before international tribunals. HR 3005 does nothing to allow US citizens to view and participate in these court proceedings where their interests are being decided, what we ordinarily consider basic legal protections.

These cases represent a troubling shift of oversight over environmental and public interest regulation to international tribunals operating behind closed doors. We therefore believe that the provisions of Chapter 11 represent a fundamental threat to the ability of democratic governments to protect the public interest. These provisions should not be repeated in any future trade agreement, and HR 3005 does nothing to prevent this.

At the markup, we offered a simple, common-sense amendment to address these serious issues. Our amendment, if successful, would have:

Ensured that foreign investors will enjoy no greater protection than that afforded to domestic U.S. investors under the U.S. constitution;

Required that all private investors gain approval from their home country government before bringing a case under the investment provisions;

Limited expropriation to cases in which there is direct expropriation of all economically beneficial use of property;

Limited violations of minimum standard of treatment to a customary international law standard defined as denial of justice and failure to provide full protection and security;

Provided a clear exception for the governmental exercise of police powers, including legitimate health, safety, environmental, consumer and employment opportunity laws and regulations, and;

Ensured that all proceedings, submissions, findings, and decisions are promptly made public and that all hearings are open to the public, and ensure that amicus briefs will be accepted and considered by the tribunals.

The Administration's arguments that any such mandatory language should not be accepted is, itself, unacceptable. HR 3005 presents merely a wish-list of environmental, labor, public health and safety goals. If we had unlimited faith in the Executive, we would not need any guidelines.

We believe that unless the important issues outlined above are addressed and the Chapter 11 model for investment provisions substantially revised, future trade agreements may impair our sovereignty and thus both our ability to protect our citizens and preserve our country's remarkable natural resources. We can make trade agreements that include a shield to guard against expropriation of an industry, without giving foreign investors a sword to attack our laws. And we can do so while opening the entire process to public inspection. We respectfully dissent and oppose HR 3005.

LLOYD DOGGETT.
JOHN LEWIS.
JIM MCDERMOTT.
KAREN THURMAN.

ADDITIONAL VIEWS ON H.R. 3005

Every President since 1974—Republican and Democrat—has had Trade Promotion Authority. Congress has consistently recognized that the Administration must have the authority to break down foreign trade barriers, and a bi-partisan majority of the United States Congress has consistently supported American leadership in opening markets and creating jobs.

This year, we face the question of how to address the emerging issues that have shaped the global economy in more recent years, including how to address the competitiveness issues raised by varying labor and environmental conditions in developing countries.

The United States cannot negotiate another country's wage levels or environmental standards anymore than the United States would permit other countries to determine our own, but we can and should work cooperatively with our trading partners to raise labor and environmental standards. Promoting sustainable development practices and respect for worker rights is a gradual process.

As you may know, we spent months working on a comprehensive, balanced proposal to grant the President authority to negotiate trade agreements. We worked hard to ensure that Democratic principles were balanced with the need to ensure our products have access to more open markets.

Like many Members, we found the Crane bill unacceptable. After consultations with Representative Rangel and other Democrats on the Ways and Means Committee, we engaged in discussions on a bill to push forward Democratic ideals. We are convinced that our proposal moves the ball forward in a balanced, meaningful, and substantial way on labor and environmental issues.

Some have argued that our proposal does not go far enough; we strongly disagree.

ILO Core Labor standards will now be considered in the context of trade agreements and negotiations. Negotiators will be able to promote respect for these ILO standards; not impose them on countries. And our proposal provides for meaningful ways for the U.S. to assist countries in improving their labor standards. Principal Negotiating Objectives require the U.S. to assist in building the capacity for countries to respect worker rights (defined in Section 10 (2) of H.R. 3005 as (1) the right of association; (2) the right to organize and bargain collectively; (3) a prohibition on the use of any form of forced or compulsory labor; (4) a minimum age for the employment of children; and (5) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health) and to develop more protective environmental laws as well as requires countries to enforce the labor and environment laws they have.

The bill also requires the U.S. to establish consultative mechanisms to improve worker rights and environmental laws, and re-

quires the Secretary of Labor to provide technical assistance to developing countries in the development of better labor laws and enforcement of those laws. We feel these provisions give U.S. negotiators a strong mandate to address labor and environmental issues without infringing on the ability of negotiators to open markets for U.S. exports and investment.

Consider other key elements of our proposal:

The bipartisan proposal includes a substantive, enforceable standard on labor and environment directly taken from the Jordan Free Trade Agreement;

The bipartisan proposal includes labor and environment objectives which require negotiators to promote respect for core labor standards, sustainable development and environmental protection;

There is parity of enforcement and the availability for the use of sanctions for ALL negotiating objectives;

We provide for a substantive, inclusive, and prescriptive role for Congress in the development of trade policy and trade negotiations; and finally,

The bill incorporates the concept of transparency at all levels of the multilateral trading regime.

While it is true that this bipartisan legislation does not take steps to impose standards on developing countries, provide overly prescriptive negotiating objectives, or attempt to grant only a limited form of negotiating authority, the bipartisan proposal represents substantial progress in the area of U.S. trade policy since the 1988 Trade Act.

Clearly, we are at a crossroads in trying to determine how best to improve international labor standards among our trading partners. On the one hand, H.R. 3005 presents an opportunity for creating a bipartisan consensus in the United States to integrate the enforcement of national labor laws into trade agreements and to increase the ability of countries through trade-related initiatives to have "core" labor standards. On the other hand, we can continue to argue over whether trade agreements must require countries to adopt specific labor laws; a position that has no chance of succeeding domestically or internationally.

Some of our colleagues advocate for the imposition of ILO standards on developing countries. The United States cannot negotiate another country's labor laws anymore than the U.S. would permit other countries to determine our own, but we can and should work cooperatively to raise labor standards around the world.

A few points on this issue:

Mandating Trade-based Enforcement of ILO Commitments Will Not Be As Effective in Improving Standards As Working Cooperatively with Developing Countries. In general, the countries whose labor standards we most want to improve will simply not agree to adopt commitments in trade agreements to enforce ILO conventions or ILO standards subject to trade sanctions. Indeed, many of these countries are as skeptical about trade and investment liberalization as they are about enforceable commitments on labor standards. The perceived benefits of trade agreements are insufficient to change the longstanding antipathy towards linking these issues in many developing countries.

Mandating Trade-based Enforcement of ILO Commitments Will Reduce, Not Enhance, the Effectiveness of the ILO. Developing countries will be less likely to agree to new ILO declarations or conventions if they see trade sanctions down the road.

Neither the "Core Principles" nor Conventional Standards Represent Appropriate Standards to be enforced in Trade Agreements. The "ILO core principles" do not provide concrete or enforceable standards for determining what is a violation. They represent general principles that all ILO member nations have agreed to pursue. ILO conventions are not appropriate standards for the United States to impose even if the other country has ratified a particular convention.

The United States is only party to two core conventions (No. 105, Abolition of Forced Labor (1957) and No. 182, Worst Forms of Child Labor (1999)) and is party to only 12 of the over 150 ILO conventions currently in force.

The United States has not ratified several of the core conventions, including those on freedom of association and collective bargaining, and other conventions. U.S. labor laws and practices may not be consistent with specific provisions in those conventions.

The dispute settlement systems typically set up by trade agreements lack the expertise to address whether such labor principles or conventional standards are being adequately enforced.

Other Mechanisms Would be More Useful to Promote Enforcement of ILO Standards. Many developing countries lack the capacity or expertise to enforce standards adequately. Efforts to provide technical assistance and increase capacity are critical to having a positive impact on labor practices worldwide. Rather than working outside the ILO to improve the enforcement of ILO standards, it would make more sense to work within the organization with both the technical expertise and all the relevant parties (*e.g.,* governments, labor and business) on improving the ILO's existing mechanisms.

Many on the Committee have expressed concern that the bipartisan bill does not go far enough to address labor and environmental concerns. While we can always strive for the perfect; the bipartisan bill represents substantial progress and a balanced approach to trade negotiations. Its provisions allow for the achievement of all the goals of the Democratic substitute; and it achieves them in a manner that does not raise questions regarding the treatment of developing countries or regarding the ability of TPA to provide greater confidence with our trading partners and our potential trading partners in the United States' commitment to enhancing the global economy through more liberalized trade.

The approach to improving labor and environmental standards in trade agreements included in the bipartisan TPA bill is balanced and responsible and we are pleased that a majority on the Committee also recognized H.R. 3005 for having made progress in these areas of U.S. trade policy.

WILLIAM J. JEFFERSON.
JOHN TANNER.

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