

PROVIDING FOR CONSIDERATION OF H.R. 3005, BIPARTISAN
TRADE PROMOTION AUTHORITY ACT OF 2001

DECEMBER 5, 2001.—Referred to the House Calendar and ordered to be printed

Mr. REYNOLDS, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 306]

The Committee on Rules, having had under consideration House Resolution 306, by a record vote of 7 to 3, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for the consideration in the House of H.R. 3005, the Bipartisan Trade Promotion Authority Act of 2001, under a closed rule. The rule provides one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The rule waives all points of order against consideration of the bill.

The rule provides that the amendment recommended by the Committee on Ways and Means now printed in the bill, modified by the amendment printed in this report, shall be considered as adopted.

Finally, the rule provides one motion to recommit with or without instructions.

The waiver of all points of order against consideration of the bill includes a waiver of section 306 of the Congressional Budget Act of 1974 (prohibiting consideration of legislation within the Budget Committee's jurisdiction, unless reported by the Budget Committee) because section 8(b) of the bill includes additional reporting requirements which fall under the jurisdiction of the Committee on the Budget.

COMMITTEE VOTES

Pursuant to clause 3(b) of House rule XIII the results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 59

Date: December 5, 2001.

Measure: H.R. 3005, Bipartisan Trade Promotion Authority Act of 2001.

Motion by: Mr. Frost.

Summary of motion: Make in order the Rangel amendment in the nature of a substitute. The amendment directs the President to negotiate binding provisions in such agreements providing for countries to implement in their laws and effectively enforce the five core, internationally-recognized labor standards. Requires the creation of a work program in FTAs that would provide technical assistance and positive incentives for each country to improve its labor standards. Directs that the labor provisions in any FTA would be enforceable in the same way as all other provisions in the agreement. Requires that when the Administration uses an enforcement remedy, it demonstrates that the remedy was effective to promote compliance on a case-by-case basis and in relation to other enforcement actions. Establishes a labor working group at the WTO, strengthens the WTO's Committee on Trade and Environment and gives it a greater role in reviewing trade rules. Strengthens the WTO's Committee on Trade and Environment and gives it a greater role in reviewing trade rules. Ensures that countries would not be penalized for taking actions in accordance with a multilateral environmental agreement (MEA). Provides protections for investors, while also ensuring that such protections do not interfere with legitimate health, environmental and other regulations. Provides for a dispute settlement system that is transparent and open to the public. Directs negotiators to require regional and bilateral negotiating partners to enforce their own environmental laws. Establishes rules preventing such countries from waiving their environmental standards in order to gain a competitive advantage. Provides for the creation of a work program in FTAs that would provide technical assistance and positive incentives for each country to improve its environmental standards. Establishes a procedure for a structured biennial review of ongoing trade negotiations subject to a fast track. Provides that prior to the imminent completion of the negotiations, a group of Congressional Trade Advisors would have to concur with the President's certification that the negotiating objectives have been substantially satisfied in order for the implementing legislation to be considered under fast track authority.

Results: Defeated 3 to 7.

Vote by Members: Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; Hastings (WA)—Nay; Myrick—Nay; Sessions—Nay; Frost—Yea; Hall—Yea; Hastings (FL)—Yea; Dreier—Nay.

Rules Committee record vote No. 60

Date: December 5, 2001.

Measure: H.R. 3005, Bipartisan Trade Promotion Authority Act of 2001.

Motion by: Mr. Linder.

Summary of motion: To report the resolution.

Results: Adopted 7 to 3.

Vote by Members: Linder—Yea; Pryce—Yea; Diaz-Balart—Yea; Hastings (WA)—Yea; Myrick—Yea; Sessions—Yea; Frost—Nay; Hall—Nay; Hastings (FL)—Nay; Dreier—Yea.

SUMMARY OF AMENDMENT TO BE CONSIDERED AS ADOPTED

(Summary derived from information provided by sponsor.)

Thomas—Manager’s Amendment. Establishes a negotiating objective that the Administration strive to ensure that parties to trade agreements do not weaken or reduce their current health, worker, safety, or environmental standards. Recognizes that U.S. law on the whole provides a high level of protection for investment consistent with or greater than the level required by international law and directs the USTR to secure for investors important rights comparable to those that would be available under U.S. legal principles and practices. Directs the Administration to establish an appellate mechanism to correct manifestly erroneous interpretations of law. Directs the Administration to establish public access to investor-state proceedings and increased transparency. Clarifies that no retaliation can be authorized based on one part’s exercise of reasonable discretion with respect to labor and environmental regulation. Changes the “promotion of certain priorities” section and directs the Administration to seek to establish a consultative mechanism to examine the trade consequences of unanticipated currency movements and to scrutinize whether a foreign government is engaged in a pattern of manipulating its currency to promote an artificial competitive advantage in international trade. Removes import sensitive agriculture, such as citrus and sugar, from proclamation authority and requires identification of these products, an ITC evaluation, and formal notification of Congress if the Administration or a trading partner decides to seek negotiations on any import sensitive agriculture product. Requires consultations on whether import sensitive agriculture faces unjustified sanitary or phytosanitary restrictions. Grants special identification and consultations with Ways and Means for products facing tariff disparities and an assessment of whether negotiations will address the disparities. Increases the role of Congress by providing a procedure which can be commenced by any Member, whereby TPA can be withdrawn expeditiously with respect to one or more agreements. The provision also requires the Administration to meet with the Congressional oversight Group before the initiation of the negotiation, and at any other time that group may request. Explanations for withdrawal of TPA include failure to consult or meet and failure of the agreement to make progress in achieving the purposes, policies, priorities, and objectives established in TPA. Expresses that it is Sense of congress to ensure adequate staffing in the Committees of primary jurisdiction over trade.

TEXT OF AMENDMENT CONSIDERED AS ADOPTED

Page 4, line 13, strike “and”.

Page 4, line 18, strike the period and insert “; and”.

Page 4, insert the following after line 18:

(7) to seek provisions in trade agreements under which parties to those agreements strive to ensure that they do not weaken or reduce the protections afforded in domestic environmental and labor laws as an encouragement for trade.

Page 5, line 23, strike “by” and insert “and, recognizing that United States law on the whole provides a high level of protection for investment, consistent with or greater than the level required by international law, to secure for investors important rights comparable to those that would be available under United States legal principles and practice, by”.

Page 6, line 12, strike “and”.

Page 6, line 17, add “and” after the semicolon.

Page 6, line 20, strike “and”.

Page 6, strike lines 21 and 22.

Page 6, insert the following after line 22:

(G) providing an appellate or similar review mechanism to correct manifestly erroneous interpretations of law; and

(H) ensuring the fullest measure of transparency in the dispute settlement mechanism, to the extent consistent with the need to protect information that is classified or business confidential, by—

(i) ensuring that all requests for dispute settlement are promptly made public;

(ii) ensuring that—

(I) all proceedings, submissions, findings, and decisions are promptly made public;

(II) all hearings are open to the public; and

(iii) establishing a mechanism for acceptance of amicus curiae submissions from businesses, unions, and nongovernmental organizations.

Page 18, line 23, insert after “resources” the following: “and no retaliation may be authorized based on the exercise of these rights or the right to establish domestic labor standards and levels of environmental protection”.

Page 24, line 15, strike “and”.

Page 24, line 24, strike the period and insert “; and”.

Page 24, add the following after line 24:

(12) seek to establish consultative mechanisms among parties to trade agreements to examine the trade consequences of significant and unanticipated currency movements and to scrutinize whether a foreign government engaged in a pattern of manipulating its currency to promote a competitive advantage in international trade.

Page 28, line 4, strike “or”.

Page 28, insert the following after line 4:

(B) notwithstanding paragraph (6), reduces the rate of duty below that applicable under the Uruguay Round Agreements, on any agricultural product which was the subject of tariff reductions by the United States as a result of the Uruguay Round Agreements, for which the rate of duty, pursuant to such Agreements, was reduced on January 1, 1995, to a rate which was not less than 97.5 percent of the rate of duty that applied to such article on December 31, 1994; or

Page 28, line 5, strike “(B)” and insert “(C)”.

Page 30, line 4, strike “(1)(B) and (2) through (5)” and insert “(1)(B), (2)(A), (2)(C), and (3) through (5)”.

Page 38, lines 11 and 12, strike “(b) NEGOTIATIONS REGARDING AGRICULTURE.—Before initiating” and insert

(b) NEGOTIATIONS REGARDING AGRICULTURE.—

(1) IN GENERAL.—Before initiating

Page 39, insert the following after line 5 and redesignate the succeeding subsections accordingly:

(2) SPECIAL CONSULTATIONS ON IMPORT SENSITIVE PRODUCTS.—(A) Before initiating negotiations with regard to agriculture, and, with respect to the Free Trade Area for the Americas and negotiations with regard to agriculture under the auspices of the World Trade Organization, as soon as practicable after the enactment of this Act, the United States Trade Representative shall—

(i) identify those agricultural products subject to tariff reductions by the United States as a result of the Uruguay Round Agreements, for which the rate of duty was reduced on January 1, 1995, to a rate which was not less than 97.5 percent of the rate of duty that applied to such article on December 31, 1994;

(ii) 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—

(I) whether any further tariff reductions on the products identified under clause (i) should be appropriate, taking into account the impact of any such tariff reduction on the United States industry producing the product concerned; and

(II) whether the products so identified face unjustified sanitary or phytosanitary restrictions, including those not based on scientific principles in contravention of the Uruguay Round Agreements;

(iii) request that the International Trade Commission prepare an assessment of the probable economic effects of any such tariff reduction on the United States industry producing the product concerned and on the United States economy as a whole; and

(iv) upon complying with clauses (i), (ii), and (iii), notify 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 of those products identified under clause (i) for which the Trade Representative intends to seek tariff liberalization in the negotiations and the reasons for seeking such tariff liberalization.

(B) If, after negotiations described in subparagraph (A) are commenced—

(i) the United States Trade Representative identifies any additional agricultural product described in subparagraph (A)(i) for tariff reductions which were not the subject of a notification under subparagraph (A)(iv), or

(ii) any additional agricultural product described in subparagraph (A)(i) is the subject of a request for tariff reductions by a party to the negotiations,

the Trade Representative shall, as soon as practicable, notify the committees referred to in subparagraph (A)(iv) of those products and the reasons for seeking such tariff reductions.

(c) NEGOTIATIONS REGARDING TEXTILES.—Before initiating or continuing negotiations the subject matter of which is directly related to textiles and apparel products with any country, the President shall assess whether United States tariffs on textile and apparel products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country and whether the negotiation provides an opportunity to address any such disparity. The President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance 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.

Page 42, line 21, insert after “Congress” the following: “, on a day on which both Houses of Congress are in session,”.

Page 45, line 9, insert “or trade agreements” after “agreement”.

Page 45, lines 14 and 16, strike “that trade agreement” and insert “such trade agreement or agreements”.

Page 45, strike line 17 and all that follows through page 46, line 9 and insert the following:

(B) PROCEDURAL DISAPPROVAL RESOLUTION.—(i) 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 in accordance with 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 such trade agreement or agreements.”, with the blank space being filled with a description of the trade agreement or agreements with respect to which the President is considered to have failed or refused to notify or consult.

(ii) For purposes of clause (i), the President has “failed or refused to notify or consult in accordance with the Bipartisan Trade Promotion Authority Act of 2001” on negotiations with respect to a trade agreement or trade agreements if—

(I) the President has failed or refused to consult (as the case may be) in accordance with section 4 or 5 with respect to the negotiations, agreement, or agreements;

(II) guidelines under section 7(b) have not been developed or met with respect to the negotiations, agreement, or agreements;

(III) the President has not met with the Congressional Oversight Group pursuant to a request made under section 7(c) with respect to the negotiations, agreement, or agreements; or

(IV) the agreement or agreements fail to make progress in achieving the purposes, policies, priorities, and objectives of this Act.

Page 46, strike lines 13 through 17 and insert the following:

(I) may be introduced by any Member of the House;

Page 46, strike lines 23 and 24 and insert the following:

(ii) in the Senate may be introduced by any Member of the Senate.

Page 47, lines 4 and 5, strike “procedural disapproval resolutions” and insert the following: “a procedural disapproval resolution introduced with respect to a trade agreement if no other procedural disapproval resolution with respect to that trade agreement has previously been considered under such provisions of section 152 of the Trade Act of 1974 in that House of Congress during that Congress”.

Page 38, line 3, strike “and”.

Page 38, line 10, strike the period and insert “; and”.

Page 38, insert the following after line 10:

(3) upon the request of a majority of the members of the Congressional Oversight Group under section 7(c), meet with the Congressional Oversight Group before initiating the negotiations or at any other time concerning the negotiations.

Page 53, insert the following after line 13:

(c) REQUEST FOR MEETING.—Upon the request of a majority of the Congressional Oversight Group, the President shall meet with the Congressional Oversight Group before initiating negotiations with respect to a trade agreement, or at any other time concerning the negotiations.

Page 55, insert the following after line 2 and redesignate succeeding sections accordingly:

SEC. 9. COMMITTEE STAFF.

The grant of trade promotion authority under this Act is likely to increase the activities of the primary committees of jurisdiction in the area of international trade. In addition, the creation of the Congressional Oversight Group under section 7 will increase the participation of a broader number of Members of Congress in the formulation of United States trade policy and oversight of the international trade agenda for the United States. The primary committees of jurisdiction should have adequate staff to accommodate these increases in activities.

Page 4, line 17, strike “10(2)” and insert “11(2)”.

Page 19, line 2, strike “10(2)” and insert “11(2)”.

Page 22, line 10, strike “10(2)” and insert “11(2)”.

Page 36, line 10, strike “sections” and insert “section”.