

109TH CONGRESS  
2D SESSION

# H. R. 4812

To provide greater accountability in reviewing the national security  
considerations of free trade agreements.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 2006

Mr. BROWN of Ohio (for himself, Mr. MICHAUD, Mr. STRICKLAND, Ms. LEE, Mr. GRIJALVA, and Mr. HOLDEN) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide greater accountability in reviewing the national  
security considerations of free trade agreements.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Trade-Related Amer-  
5       ican National Security Enhancement and Accountability  
6       Act”.

1 **SEC. 2. REPORTS TO CONGRESS ON NATIONAL SECURITY**  
2 **CONSIDERATIONS OF FREE TRADE AGREE-**  
3 **MENTS.**

4 (a) **PRELIMINARY REPORT.**—The United States  
5 Trade Representative shall, before commencing negotia-  
6 tions with a foreign country for a free trade agreement  
7 with that country, submit to Congress a report that details  
8 the national security considerations likely to result from  
9 the free trade agreement.

10 (b) **FINAL REPORT.**—The United States Trade Rep-  
11 resentative shall, after reaching a free trade agreement  
12 with a foreign country, submit to Congress a report that  
13 details the national security considerations of the free  
14 trade agreement.

15 (c) **CONCURRENCE OF OTHER OFFICIALS RE-**  
16 **QUIRED.**—Each report required by this section shall be  
17 submitted with the concurrence of each of the following:

- 18 (1) The Secretary of Homeland Security.  
19 (2) The Secretary of State.  
20 (3) The Attorney General.

1 **SEC. 3. TRADE AGREEMENTS TO INCLUDE AUTHORITY FOR**  
2 **PRESIDENT TO SUSPEND ANY PROVISION OF**  
3 **AGREEMENT WHERE NECESSARY TO ENSURE**  
4 **THE NATIONAL SECURITY OF THE UNITED**  
5 **STATES.**

6 (a) INCLUSION IN TRADE AGREEMENTS.—The  
7 United States may not enter into a trade agreement after  
8 the date of the enactment of this Act unless the agreement  
9 provides authority under which the President may suspend  
10 the agreement, or any part of the agreement, whenever  
11 the President determines that the suspension is necessary  
12 to ensure the national security of the United States.

13 (b) REPORT TO CONGRESS.—Whenever the President  
14 uses the authority required by subsection (a), the Presi-  
15 dent shall submit to Congress a report on the use of that  
16 authority. The report shall—

17 (1) identify the agreement (or part of the  
18 agreement) covered by the suspension;

19 (2) describe the national security concerns on  
20 which the use of the authority is based;

21 (3) assess the consequences of the suspension  
22 on the economy of the United States; and

23 (4) identify the administrative, legislative, or  
24 diplomatic actions that the President proposes to  
25 remedy the national security concerns described  
26 under paragraph (2).

1 **SEC. 4. REVIEW BY COMMISSION OF NATIONAL SECURITY**  
2 **CONSIDERATIONS OF FREE TRADE AGREE-**  
3 **MENTS.**

4 (a) REVIEW OF EACH NEW AGREEMENT.—Each  
5 final report submitted under section 2(b) with respect to  
6 a free trade agreement shall be transmitted to the Con-  
7 gressional Executive Commission on Trade Security. For  
8 each such report, the commission shall—

9 (1) review the free trade agreement covered by  
10 the report;

11 (2) independently determine the national secu-  
12 rity considerations of the free trade agreement; and

13 (3) submit to Congress a report that—

14 (A) details the national security consider-  
15 ations of the free trade agreement; and

16 (B) includes a clear finding as described in  
17 subsection (c).

18 (b) ONGOING REVIEW OF EXISTING AGREEMENTS.—  
19 The commission shall—

20 (1) review, on an ongoing basis, each free trade  
21 agreement of the United States;

22 (2) independently determine the national secu-  
23 rity considerations of each such free trade agree-  
24 ment; and

25 (3) for each such free trade agreement, submit  
26 to Congress a report that—

1 (A) details the national security consider-  
2 ations of the free trade agreement; and

3 (B) if the free trade agreement provides  
4 authority under which the President may sus-  
5 pend the agreement (as described in section  
6 3(a)), includes a clear finding as described in  
7 subsection (c).

8 (c) FINDING REQUIRED.—A clear finding as de-  
9 scribed in this subsection is a clear finding as to whether  
10 the President—

11 (1) should use the authority under section 3(a)  
12 to suspend all or part of the agreement; or

13 (2) should not use such authority.

14 **SEC. 5. CONGRESSIONAL EXECUTIVE COMMISSION ON**  
15 **TRADE SECURITY.**

16 (a) ESTABLISHMENT.—There is established a com-  
17 mission to be known as the Congressional Executive Com-  
18 mission on Trade Security.

19 (b) DUTIES.—The duties of the commission shall be  
20 as follows:

21 (1) To monitor and investigate the national se-  
22 curity considerations of free trade agreements in ef-  
23 fect, and of free trade agreements concluded but not  
24 yet in effect.

1           (2) To provide information and recommenda-  
2           tions to Congress on the national security consider-  
3           ations of such agreements.

4           (3) To carry out such other activities required  
5           by this Act or other law.

6           (c) MEMBERSHIP.—The commission shall be com-  
7           posed of 8 members appointed as follows:

8           (1) 2 members appointed by the Speaker of the  
9           House of Representatives.

10          (2) 2 members appointed by the minority leader  
11          of the House of Representatives.

12          (3) 2 members appointed by the majority leader  
13          of the Senate.

14          (4) 2 members appointed by the minority leader  
15          of the Senate.

16          (d) DISQUALIFICATION.—An individual is not eligible  
17          to serve on the commission while also serving as an officer  
18          or employee—

19               (1) in the Office of the United States Trade  
20               Representative;

21               (2) of the Department of Homeland Security;

22               (3) of the Department of State; or

23               (4) of the Department of Justice.

24          (e) TERMS.—

1           (1) IN GENERAL.—Each member of the com-  
2 mission shall be appointed for a term of 6 years.

3           (2) VACANCIES.—Any member appointed to fill  
4 a vacancy occurring before the expiration of the  
5 term for which the member's predecessor was ap-  
6 pointed shall be appointed only for the remainder of  
7 that term. A member may serve after the expiration  
8 of that member's term until a successor has taken  
9 office. A vacancy in the commission shall be filled in  
10 the manner in which the original appointment was  
11 made.

12       (f) BASIC PAY.—

13           (1) RATES OF PAY.—To the extent or in the  
14 amounts provided in advance in appropriations acts,  
15 members shall each be compensated in the same  
16 manner provided for the compensation of members  
17 of the Trade Deficit Review Commission under sec-  
18 tion 127(g)(1) and section 127(g)(6) of the Trade  
19 Deficit Review Commission Act (19 U.S.C. 2213  
20 note).

21           (2) PROHIBITION ON COMPENSATION OF FED-  
22 ERAL EMPLOYEES.—Members of the commission  
23 who are full-time officers or employees of the United  
24 States, or Members of Congress, may not receive ad-

1       ditional pay, allowances, or benefits by reason of  
2       their service on the commission.

3       (g) TRAVEL EXPENSES.—Each member shall receive  
4       travel expenses, including per diem in lieu of subsistence,  
5       in accordance with applicable provisions under subchapter  
6       I of chapter 57 of title 5, United States Code.

7       (h) QUORUM.—Five members of the commission shall  
8       constitute a quorum, but a lesser number may hold hear-  
9       ings.

10       (i) CHAIRPERSON.—The chairperson of the commis-  
11       sion shall be elected from among the members.

12       (j) MEETINGS.—The commission shall meet not less  
13       often than annually. A meeting shall promptly be held in  
14       any of the following cases:

15               (1) Upon the call of the chairperson.

16               (2) Upon the call of a majority of the members.

17               (3) Upon the receipt of a final report submitted  
18       under section 2(b).

19       (k) EXECUTIVE DIRECTOR; STAFF.—An executive di-  
20       rector and other additional personnel for the commission  
21       shall be appointed, compensated, and terminated in the  
22       same manner provided for the appointment, compensation,  
23       and termination of the executive director and other per-  
24       sonnel of the Trade Deficit Review Commission under sec-  
25       tion 127(g)(3) and section 127(g)(6) of the Trade Deficit



1 Review Commission Act. The executive director and any  
2 personnel who are employees of the Congressional Execu-  
3 tive Commission on Trade Security shall be employees  
4 under section 2105 of title 5 for purposes of chapters 63,  
5 81, 83, 84, 85, 87, 89, and 90 of that title.

6 (l) EXPERTS AND CONSULTANTS.—The commission  
7 may procure temporary and intermittent services under  
8 section 3109(b) of title 5, United States Code.

9 (m) HEARINGS AND SESSIONS.—The commission  
10 may, for the purpose of carrying out its duties, hold hear-  
11 ings, sit and act at times and places, take testimony, and  
12 receive evidence as the commission considers appropriate.  
13 The commission may administer oaths or affirmations to  
14 witnesses appearing before it.

15 (n) OBTAINING OFFICIAL DATA.—The commission  
16 may secure directly from any department or agency of the  
17 United States information necessary to enable it to carry  
18 out this Act. Upon request of the commission, the head  
19 of that department or agency shall furnish that informa-  
20 tion to the commission.

21 **SEC. 6. REVIEW BY CONGRESS OF NATIONAL SECURITY**  
22 **CONSIDERATIONS OF FREE TRADE AGREE-**  
23 **MENTS.**

24 (a) CONGRESSIONAL DISAPPROVAL.—

1           (1) GENERAL RULE.—The President shall exer-  
2       cise the authority under section 3(a) to suspend all  
3       or part of a free trade agreement if a joint resolu-  
4       tion described in subsection (b) is enacted into law  
5       pursuant to the provisions of paragraph (2).

6           (2) PROCEDURAL PROVISIONS.—(A) The re-  
7       quirements of this paragraph are met if the joint  
8       resolution is enacted under subsection (b), and—

9           (i) the Congress adopts and transmits the  
10       joint resolution to the President before the end  
11       of the 90-day period (excluding any day de-  
12       scribed in section 154(b) of the Trade Act of  
13       1974), beginning on the date on which the Con-  
14       gress receives a report containing a finding de-  
15       scribed in section 5(c)(1), and

16          (ii) if the President vetoes the joint resolu-  
17       tion, each House of Congress votes to override  
18       that veto on or before the later of the last day  
19       of the 90-day period referred to in clause (i) or  
20       the last day of the 15-day period (excluding any  
21       day described in section 154(b) of the Trade  
22       Act of 1974) beginning on the date on which  
23       the Congress receives the veto message from the  
24       President.

1           (B) A joint resolution to which this section ap-  
2       plies may be introduced at any time on or after the  
3       date on which the commission submits to the Con-  
4       gress a report containing a finding described in sec-  
5       tion 5(c)(1), and before the end of the 90-day period  
6       referred to in subparagraph (A).

7       (b) JOINT RESOLUTIONS.—

8           (1) JOINT RESOLUTIONS.—For purposes of this  
9       section, the term “joint resolution” means only a  
10      joint resolution of the 2 Houses of Congress, the  
11      matter after the resolving clause of which is as fol-  
12      lows: “That the Congress directs the President to  
13      exercise the authority described in section 3(a) of  
14      the Trade-Related American National Security En-  
15      hancement and Accountability Act with respect to  
16      the free trade agreement relating to \_\_\_\_\_. ” (the  
17      blank space being appropriately filled in).

18          (2) PROCEDURES.—(A) Joint resolutions may  
19      be introduced in either House of the Congress by  
20      any member of such House.

21          (B) If the committee of either House to which  
22      a joint resolution has been referred has not reported  
23      it by the close of the 45th day after its introduction  
24      (excluding any day described in section 154(b) of the  
25      Trade Act of 1974), such committee shall be auto-

1 matically discharged from further consideration of  
2 the joint resolution and it shall be placed on the ap-  
3 propriate calendar.

4 (C) It is not in order for—

5 (i) the Senate to consider any joint resolu-  
6 tion unless it has been reported by the Com-  
7 mittee on Finance or the committee has been  
8 discharged under subparagraph (C); or

9 (ii) the House of Representatives to con-  
10 sider any joint resolution unless it has been re-  
11 ported by the Committee on Ways and Means  
12 or the committee has been discharged under  
13 subparagraph (C).

14 (D) A motion in the House of Representatives  
15 to proceed to the consideration of a joint resolution  
16 may only be made on the second legislative day after  
17 the calendar day on which the Member making the  
18 motion announces to the House his or her intention  
19 to do so.

20 (3) CONSIDERATION OF SECOND RESOLUTION  
21 NOT IN ORDER.—It shall not be in order in either  
22 the House of Representatives or the Senate to con-  
23 sider a joint resolution (other than a joint resolution  
24 received from the other House), if that House has

1       previously adopted a joint resolution under this sec-  
2       tion.

3       (c) RULES OF HOUSE OF REPRESENTATIVES AND  
4 SENATE.—This section is enacted by the Congress—

5           (1) as an exercise of the rulemaking power of  
6       the House of Representatives and the Senate, re-  
7       spectively, and as such is deemed a part of the rules  
8       of each House, respectively, and such procedures su-  
9       persede other rules only to the extent that they are  
10      inconsistent with such other rules; and

11          (2) with the full recognition of the constitu-  
12      tional right of either House to change the rules (so  
13      far as relating to the procedures of that House) at  
14      any time, in the same manner, and to the same ex-  
15      tent as any other rule of that House.

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