

110TH CONGRESS
1ST SESSION

S. 1280

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

IN THE SENATE OF THE UNITED STATES

MAY 3, 2007

Mr. BROWN (for himself and Mr. DORGAN) introduced the following bill; which
was read twice and referred to the Committee on Finance

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.
21 (4) The Secretary of Agriculture.

22 (d) **NATIONAL SECURITY CONSIDERATIONS.**—For
23 purposes of this section and section 3, national security
24 considerations include the consideration of procurement of
25 goods and services for military purposes, safety and secu-
26 rity of the infrastructure of the United States, port secu-

1 rity, and potential public health consequences to United
 2 States consumers because of the importation of goods re-
 3 sulting from the free trade agreement.

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

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

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

20 (1) identify the agreement (or part of the
 21 agreement) covered by the suspension;

22 (2) describe the national security considerations
 23 (as defined in section 2(d)) on which the use of the
 24 authority is based;

1 (3) assess the consequences of the suspension
2 on the economy of the United States; and

3 (4) identify the administrative, legislative, or
4 diplomatic actions that the President proposes to
5 remedy the national security concerns described
6 under paragraph (2).

7 **SEC. 4. REVIEW BY COMMISSION OF NATIONAL SECURITY**
8 **CONSIDERATIONS OF FREE TRADE AGREE-**
9 **MENTS.**

10 (a) REVIEW OF EACH NEW AGREEMENT.—Each
11 final report submitted under section 2(b) with respect to
12 a free trade agreement shall be transmitted to the Con-
13 gressional Executive Commission on Trade Security (es-
14 tablished under section 5). For each such report, the Com-
15 mission shall—

16 (1) review the free trade agreement covered by
17 the report;

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

20 (3) submit to Congress a report that—

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

23 (B) includes a clear finding as described in
24 subsection (c).

1 (b) ONGOING REVIEW OF EXISTING AGREEMENTS.—

2 The Commission shall—

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

5 (2) independently determine the national secu-
6 rity considerations of each such free trade agree-
7 ment; and

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

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

12 (B) if the free trade agreement provides
13 authority under which the President may sus-
14 pend the agreement (as described in section
15 3(a)), includes a clear finding as described in
16 subsection (c).

17 (c) FINDING REQUIRED.—A clear finding as de-
18 scribed in this subsection is a clear finding as to whether
19 the President—

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

22 (2) should not use such authority.

1 **SEC. 5. CONGRESSIONAL EXECUTIVE COMMISSION ON**
2 **TRADE SECURITY.**

3 (a) ESTABLISHMENT.—There is established a Com-
4 mission to be known as the Congressional Executive Com-
5 mission on Trade Security.

6 (b) DUTIES.—The duties of the Commission shall be
7 as follows:

8 (1) To monitor and investigate the national se-
9 curity considerations of free trade agreements in ef-
10 fect, and of free trade agreements concluded but not
11 yet in effect.

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

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

17 (c) MEMBERSHIP.—The Commission shall be com-
18 posed of 8 members appointed as follows:

19 (1) 2 members appointed by the Speaker of the
20 House of Representatives.

21 (2) 2 members appointed by the minority leader
22 of the House of Representatives.

23 (3) 2 members appointed by the majority leader
24 of the Senate.

25 (4) 2 members appointed by the minority leader
26 of the Senate.

1 (d) DISQUALIFICATION.—An individual is not eligible
2 to serve on the Commission while also serving as an officer
3 or employee—

4 (1) in the Office of the United States Trade
5 Representative;

6 (2) of the Department of Homeland Security;

7 (3) of the Department of State; or

8 (4) of the Department of Justice.

9 (e) TERMS.—

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

12 (2) VACANCIES.—Any member appointed to fill
13 a vacancy occurring before the expiration of the
14 term for which the member's predecessor was ap-
15 pointed shall be appointed only for the remainder of
16 that term. A member may serve after the expiration
17 of that member's term until a successor has taken
18 office. A vacancy in the Commission shall be filled
19 in the manner in which the original appointment was
20 made.

21 (f) BASIC PAY.—

22 (1) RATES OF PAY.—To the extent or in the
23 amounts provided in advance in appropriations acts,
24 members shall each be compensated in the same
25 manner provided for the compensation of members

1 of the Trade Deficit Review Commission under sec-
2 tion 127(g)(1) and section 127(g)(6) of the Trade
3 Deficit Review Commission Act (19 U.S.C. 2213
4 note).

5 (2) PROHIBITION ON COMPENSATION OF FED-
6 ERAL EMPLOYEES.—Members of the Commission
7 who are full-time officers or employees of the United
8 States, or Members of Congress, may not receive ad-
9 ditional pay, allowances, or benefits by reason of
10 their service on the Commission.

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

15 (h) QUORUM.—Five members of the Commission
16 shall constitute a quorum, but a lesser number may hold
17 hearings.

18 (i) CHAIRPERSON.—The chairperson of the Commis-
19 sion shall be elected from among the members.

20 (j) MEETINGS.—The Commission shall meet not less
21 often than annually. A meeting shall promptly be held in
22 any of the following cases:

23 (1) Upon the call of the chairperson.

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

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

3 (k) EXECUTIVE DIRECTOR; STAFF.—An executive di-
4 rector and other additional personnel for the Commission
5 shall be appointed, compensated, and terminated in the
6 same manner provided for the appointment, compensation,
7 and termination of the executive director and other per-
8 sonnel of the Trade Deficit Review Commission under sec-
9 tion 127(g)(3) and section 127(g)(6) of the Trade Deficit
10 Review Commission Act. The executive director and any
11 personnel who are employees of the Congressional Execu-
12 tive Commission on Trade Security shall be employees
13 under section 2105 of title 5 for purposes of chapters 63,
14 81, 83, 84, 85, 87, 89, and 90 of that title.

15 (l) EXPERTS AND CONSULTANTS.—The Commission
16 may procure temporary and intermittent services under
17 section 3109(b) of title 5, United States Code.

18 (m) HEARINGS AND SESSIONS.—The Commission
19 may, for the purpose of carrying out its duties, hold hear-
20 ings, sit and act at times and places, take testimony, and
21 receive evidence as the Commission considers appropriate.
22 The Commission may administer oaths or affirmations to
23 witnesses appearing before it.

24 (n) OBTAINING OFFICIAL DATA.—The Commission
25 may secure directly from any department or agency of the

1 United States information necessary to enable it to carry
 2 out this Act. Upon request of the Commission, the head
 3 of that department or agency shall furnish that informa-
 4 tion to the Commission.

5 **SEC. 6. REVIEW BY CONGRESS OF NATIONAL SECURITY**

6 **CONSIDERATIONS OF FREE TRADE AGREE-**
 7 **MENTS.**

8 (a) CONGRESSIONAL DISAPPROVAL.—

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

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

17 (i) the Congress adopts and transmits the
 18 joint resolution to the President before the end
 19 of the 90-day period (excluding any day de-
 20 scribed in section 154(b) of the Trade Act of
 21 1974), beginning on the date on which the Con-
 22 gress receives a report containing a finding de-
 23 scribed in section 5(c)(1), and

24 (ii) if the President vetoes the joint resolu-
 25 tion, each House of Congress votes to override

1 that veto on or before the later of the last day
2 of the 90-day period referred to in clause (i) or
3 the last day of the 15-day period (excluding any
4 day described in section 154(b) of the Trade
5 Act of 1974) beginning on the date on which
6 the Congress receives the veto message from the
7 President.

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

14 (b) JOINT RESOLUTIONS.—

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

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

4 (B) If the committee of either House to which
5 a joint resolution has been referred has not reported
6 it by the close of the 45th day after its introduction
7 (excluding any day described in section 154(b) of the
8 Trade Act of 1974), such committee shall be auto-
9 matically discharged from further consideration of
10 the joint resolution and it shall be placed on the ap-
11 propriate calendar.

12 (C) It is not in order for—

13 (i) the Senate to consider any joint resolu-
14 tion unless it has been reported by the Com-
15 mittee on Finance or the committee has been
16 discharged under subparagraph (C); or

17 (ii) the House of Representatives to con-
18 sider any joint resolution unless it has been re-
19 ported by the Committee on Ways and Means
20 or the committee has been discharged under
21 subparagraph (C).

22 (D) A motion in the House of Representatives
23 to proceed to the consideration of a joint resolution
24 may only be made on the second legislative day after
25 the calendar day on which the Member making the

1 motion announces to the House his or her intention
2 to do so.

3 (3) CONSIDERATION OF SECOND RESOLUTION
4 NOT IN ORDER.—It shall not be in order in either
5 the House of Representatives or the Senate to con-
6 sider a joint resolution (other than a joint resolution
7 received from the other House), if that House has
8 previously adopted a joint resolution under this sec-
9 tion.

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

12 (1) as an exercise of the rulemaking power of
13 the House of Representatives and the Senate, re-
14 spectively, and as such is deemed a part of the rules
15 of each House, respectively, and such procedures su-
16 persede other rules only to the extent that they are
17 inconsistent with such other rules; and

18 (2) with the full recognition of the constitu-
19 tional right of either House to change the rules (so
20 far as relating to the procedures of that House) at
21 any time, in the same manner, and to the same ex-
22 tent as any other rule of that House.

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