

TRADE NEGOTIATING AUTHORITY ACT OF 2009

Section 1. Short title, findings and purpose

(a) Short title

This Act may be cited as the "Trade Negotiating Authority Act of 2009".

(b) Findings

The Congress makes the following findings:

(1) The primary objectives of United States participation in international trade negotiations are to foster the security, standard of living, and health and safety of the people of the United States. These American objectives are fully consistent with and support the establishment of a world of greater peace, freedom and prosperity for all peoples.

(2) The expansion of international trade and investment is vital to the national security and foreign policy interests of the United States, in significant part because expanding trade contributes to economic development, job growth and prosperity and thereby political stability throughout the world. Trade is also critical to the economic growth and strength of the United States and to its global leadership.

(3) Trade agreements should maximize opportunities for the United States economy, providing the economic and technological base to advance its objectives in world affairs through a strong economy and military, with assured support of the American people.

(4) America's leadership role is critical to the world trading system and requires a national strategy.

(5) Benefits from an open world trading system require not only access to foreign market access for American goods, services and technology, and access to the goods, services and technology produced by other countries, but most importantly a highly competitive, advanced U.S. economy.

(6) Trade policy does not exist in a vacuum. To maximize the benefits for the United States from participation in an open international trading environment, America's domestic policies must assure that the United States is the foremost attractive location for global investment in productive facilities and people as well as in research and development, particularly of advanced technologies and innovative industries, with an education system second to none, a high quality, accessible health care system, a highly skilled workforce, a secure and competitive energy supply, a modern infrastructure, and a clean and attractive environment.

(7) The 21st century will be characterized by rapid economic change fueled by increasing global economic integration.

(8) It is in the interest of the United States that as many countries as possible, including the developing nations, participate fully in the trading system and realize its benefits.

(9) The nature of global competition has changed from a focus exclusively on exporting finished products to foreign markets to utilizing assets – capital, investment and human talent – globally to maximize participation in growing markets in all parts of the world. Open markets and a rules-based trading system are essential to the United States being able to take better advantage of its status as a high-wage, high-productivity nation in an era of heightened global competition.

(10) Maintaining competitiveness is no longer a matter simply of exports and imports across national borders but rather the construction of complex chains of supply and distribution that operate in multiple jurisdictions and include many enterprises, small and large, working together to produce products and services that are sold in the global marketplace dependent upon rules and disciplines that are enforceable and adaptable as technology progresses.

(11) It is in the United States' interest to create a global economic environment that allows the U.S. to fully participate and take advantage of those supply chains and markets, and by doing so to promote growth of the U.S. economy and job creation.

(12) An integral part of creating high quality jobs that enhance economic opportunities for working families is ensuring that our work force is well prepared for the challenge. A 21st century trade policy, therefore, must be complemented by education and training programs that prepare current and future generations of workers for the rapidly changing economy.

(13) An integral element of a globally integrated economy is a workforce talent pool that is mobile and has the skill sets to adapt to and benefit from the changing economic realities of a globally integrated economy.

(14) In a global economy, any country to prosper must, consistent with its national objectives of the security and welfare of its people, provide an opportunity for the private sector's objectives of maximizing economic return consistent with social responsibilities can also be met. It is in the interests of the United States to be the most attractive place in the world to innovate, produce, work and live.

(c) Purpose

The purpose of this Act is to provide authority and guidance to the President for dealing with global economic integration in ways that will enhance the economic position of American enterprises, workers and farmers and help them promote economic growth and job creation in the United States and around the globe.

Section 2. Fundamental objectives

Fundamental to achieving that purpose is reaching international agreement on institutions, rules, and policies that will:

- (1) Continue to make markets for exports of U.S. goods, services, and agriculture more open and freely contestable;
- (2) Develop the physical, financial, and services infrastructure, which together with the rule of law, are necessary to permit goods and services to move both freely and securely across borders and within countries;
- (3) Continue to improve the protection of intellectual property rights, an essential incentive for investment and vital component of development and growth in all countries;
- (4) Work to reduce or eliminate artificial or trade-distorting barriers to foreign investment in all countries;
- (5) Promote trade liberalization that serves the purpose of improving the environment and combating climate change;
- (6) Ensure that U.S. producers of goods, services, and technology can gain access to and take full advantage of global supply and distribution chains that have become a competitive necessity for U.S. firms serving world markets;
- (7) Ensure that regulatory processes, both at home and abroad, are transparent and accessible and remove or limit the resort to regulations and barriers (including in particular the imposition of discriminatory standards) that prevent enterprises from focusing on what they do best, which is to lay the foundation for economic growth and job creation;
- (8) Encourage other participants in the global trading system to enhance their investment in and commitment to domestic institutions that facilitate participation in the international

trading system and ensure the protection of the health and safety of consumers and workers at home and abroad. This includes customs services, border control forces, and health, safety and environmental regulatory bodies;

(10) Reflect ILO core labor standards that ensure the ability of individuals to bargain freely for the fair value of their labor and to allow countries to deny access to their markets of goods, services or technology made with slave or child labor;

(11) Ensure opportunities for high-skilled individuals through temporary entry and business facilitation so as to maximize U.S. competitiveness in the United States and in global markets;

(12) Work in the World Trade Organization to ensure that unilateral economic sanctions and measures that restrict exports are imposed only after careful consideration of their costs and benefits and do not unduly harm general populations.

Section 3. Multilateral Negotiating Objectives

(a) Policy

The United States has a vital stake in the multilateral trading system and in improving its rules and functioning and expanding its scope. Fully realizing the promise and benefits of global economic integration requires multilateral institutions and international rules that will be honored by all. The United States should pursue that goal through the objectives in subsection (b).

(b) Objectives

- 1) Lead major multilateral initiatives to liberalize world trade in goods and services and investment, protection of intellectual property, and otherwise fulfill the objectives of this Act;
- 2) Support the World Trade Organization and its further development through systemic reform necessary to foster the objectives contained in this Act; including improving the operation of the WTO by providing a role for major trading nations reflecting their stake in world trade;
- 3) Recognize that WTO members differ in their willingness and/or political ability to embrace fully and implement new rules and disciplines of the global trading system and encourage WTO Members to pursue alternatives which include the United States that will enable further trade liberalization through the development, as may be necessary, of a two-track structure that allows nations willing to agree to greater liberalization, rules, and disciplines, including on a sectoral basis, to do so and to apply such benefits on a reciprocal basis rather than as part of a “single undertaking” while leaving open the possibility for other WTO Members to join in the initial agreements later through a clear and transparent process;
- 4) Encourage the WTO to adopt stricter rules regarding the coverage and depth of obligations assumed as part of a free trade agreement before it qualifies as an exception to the most-favored-nation obligations of the WTO;
- 5) Harmonize the rules contained in the numerous free trade agreements negotiated by many of its members;
- 6) Eliminate trade-distorting measures that contribute to chronic trade imbalances and undermine normal market forces;

- 7) Eliminate the practices of governments and state-owned enterprises that create market distortions, including the creation of productive capacity unwarranted by market forces;
- 8) Strengthen the rules against trade distorting practices and maintain strong and effective multilateral and domestic remedies, including antidumping and countervailing duties, that permit offsets against such practices;
- 9) Strengthen WTO dispute settlement procedures that enforce WTO rules, as agreed to by members;
- 10) Ensure that the rules of the multilateral trading system do not create a disparity in the treatment of international transactions regarding goods, services, technology or investment based solely on the form of tax or method of taxation adopted by individual parties to such arrangements, creating an advantage for some countries at the expense of others.
- 11) Pursue expanded disciplines to combat bribery and corruption and improve transparency and corporate governance, building on the work done in multilateral fora other than the WTO.

Section 4. Regional and bilateral negotiating objectives

(a) Policy

While the United States remains fully committed to the multilateral trading system and believes it must be the basis for fully realizing the benefits of the 21st century economy, it also recognizes that regional or bilateral trade agreements of the United States can reinforce the multilateral system if undertaken consistent with the objectives in subsection (b).

(b) Objectives

- 1) Give priority attention to those countries with the greatest economic and commercial significance and potential for expanding trade with the United States and promoting employment opportunities within the United States, and which have the capacity to effectively implement such agreements; and in particular to explore deeper economic interrelationships with trading partners at comparable levels of economic development;
- 2) Give priority to those bilateral or regional agreements with the greatest capacity to reinforce the goals articulated above with respect to the multilateral trading system by establishing effective precedents consistent with United States objectives in new areas of negotiation such as investment, regulatory policy designed to ensure due process, expansion of competition and enhance consumer choice and welfare, protection of the environment, fostering the improved conditions of labor, promotion of energy efficiency, and enhancing the safety of food and other products;
- 3) Launch negotiations among existing free trade agreement partners to integrate and harmonize existing bilateral and regional free trade arrangements in order to provide a baseline from which new agreements can be negotiated and over which new agreements offer a material advance;

- 4) Ensure to the maximum extent possible that the negotiation of regional free trade agreements, whether contemplated or currently under negotiation, does not discriminate against American trade and investment.

Section 5. Environment

The Congress recognizes that policies to address climate change must be global rather than national in nature and that trade liberalization has the potential to be a global driver of solutions to climate change. Therefore, negotiating objectives should promote trade policies and provisions of trade agreements that will:

- (a) Increase market access to and reduce the cost of technologies, goods and services that aid efforts to reduce climate change by enhancing energy efficiency and reducing carbon emissions in all countries;
- (b) Secure the liberalization of goods and services needed to facilitate effective implementation of a global cap and trade system for carbon emissions, if adopted, and to improve the ability of producers in every country, particularly those in the least developed countries, to participate in such a cap and trade system.

Section 6. 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 chapter will be promoted thereby, the President -

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

- (i) June 1, 2013; or
- (ii) June 1, 2017, if trade authorities procedures are extended under subsection (e) of this section; 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 the rate of duty below that applicable under the Uruguay Round Agreements, or any subsequent multilateral trade agreement on any import sensitive agricultural product; or

(B) increases any rate of duty above the rate that applied on January 1, 2009.

(3) 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 this chapter and that bill is enacted into law.

(4) 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 chapter 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, 2013; or

(ii) June 1, 2017, if trade authorities procedures are extended under subsection (e) of this section.

(c) Conditions

A trade agreement may be entered into under this section only if such agreement makes progress in meeting the applicable objectives described in sections 2-5 of this Act.

(d) Bills qualifying for trade authorities procedures

(1) The provisions of section 2191 of this title (in this Act referred to as "trade authorities procedures") apply to a bill of either House of Congress which contains provisions described in subparagraph (2) to the same extent as such section 2191 of this title applies to implementing bills under that section. A bill to which this paragraph applies shall hereafter in this chapter be referred to as an "implementing bill".

(2) The provisions referred to in subparagraph (1) 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.

(e) Extension disapproval process for Congressional trade authorities procedures

(1) In general

Except as provided in section 8(b) of this title -

(A) the trade authorities procedures apply to implementing bills submitted with respect to trade agreements entered into under subsection (b) of this section before July 1, 2013; and

(B) the trade authorities procedures shall be extended to implementing bills submitted with respect to trade agreements entered into under subsection (b) of this section after June 30, 2013, and before July 1, 2017, 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, 2013.

(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, 2013, 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) of this section 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 chapter together with an explanation of areas where progress has not been made and the reasons therefor, 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) Other reports to Congress

(A) Report by the Advisory Committee

The President shall promptly inform the Advisory Committee for Trade Policy and Negotiations established under section 2155 of this title 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, 2013, a written report that contains

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

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

(B) Report by ITC

The President shall promptly inform the International Trade Commission of the President's decision to submit a report to the Congress under paragraph (2). The International Trade Commission shall submit to the Congress as soon as practicable, but not later than May 1, 2013, a written report that contains a review and analysis of the economic impact on the United

States of all trade agreements implemented between the date of enactment of this Act and the date on which the President decides to seek an extension requested under paragraph (2).

(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 of the trade authorities procedures under the Trade Negotiating Authority Act of 2009 to any implementing bill submitted with respect to any trade agreement entered into under

section 6 of that Act after June 30, 2013.", 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 section 2192(d) and (e) of this title (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, 2013.

(f) 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 consistent with the objectives of this Act, feasible and timely and would benefit the United States. In so doing, the President shall take into account all of the fundamental negotiating objectives set forth in section 2 of this Act.

Section 7. Consultations and assessment

(a) Notice and consultation before negotiation

The President, with respect to any agreement that is subject to the provisions of section 6(a) or 6(b) of this title, 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;

(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 Joint Committee on Trade established pursuant to section 10 of this Act.

(b) Joint Committee resolution of approval

With respect to any proposed negotiation other than a multilateral negotiation pursuant to a mandate of the World Trade Organization, the President may not begin negotiations until after the Joint Committee on Trade has adopted a resolution approving the negotiation.

(c) For purposes of subsection (b), the term “resolution of approval” means a resolution of the Joint Committee on Trade, the text of which is, “Resolved that the Joint Committee on Trade approves the request of the President to initiate trade negotiations with _____ pursuant to the President’s notification of _____.”, with the first blank space being filled with the names of the country or countries with whom the negotiations are proposed and the second blank space to be filled with the date of the President’s notification.

(d) With respect to any notification submitted by the President pursuant to subsection (a), the Joint Committee on Trade must vote on a resolution as prescribed in subsection (b) within the 90 calendar day period described in subsection (a)(1).

(e) With respect to negotiations on an agreement begun under the authority of the Bipartisan Trade Promotion Authority Act of 2002 but not completed prior to the expiration of that Act, no vote of the Joint Committee on Trade is required.

(f) Consultations during the course of negotiations

(1) Consultations with congressional advisers

In the course of negotiations conducted under this chapter, the President shall consult closely and on a timely basis with, and keep fully apprised of the negotiations, the Joint Committee on Trade established pursuant to section 10 of this Act 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 chapter, 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 10(a)(4) of this Act, the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Trade established under section 10 of this title; 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.

(g) Consultation with Congress before agreements entered into

(1) Consultation

Before entering into any trade agreement under section 6 of this title, 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 Joint Committee on Trade established in this Act.

(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 chapter; and

(C) the implementation of the agreement under section 7 of this title, including the general effect of the agreement on existing laws.

(h) Advisory Committee reports

The report required under section 135(e)(1) of the Trade Act of 1974 [19 U.S.C. 2155(e)(1)] regarding any trade agreement entered into under section 3803(a) or (b) of this title 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 6 of this Act of the President's intention to enter into the agreement.

(i) 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 6 of this Act, 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.

Section 8. Implementation of trade agreements

(a) In general

(1) Notification and submission

Any agreement entered into under section 6(b) of this Act 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, on a day on which both Houses of Congress are in session, a copy of the final legal text of the agreement, together with -

(i) a draft of an implementing bill described in section 3803(b)(3) of this title;

(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 chapter; 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; and

(IV) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in sections 2-5 of this Act.

(3) Reciprocal benefits

In order to ensure that a foreign country that is not a party to a trade agreement entered into under section 3803(b) of this title 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.

(4) Disclosure of commitments

Any agreement or other understanding with a foreign government or governments (whether oral or in writing) that -

(A) relates to a trade agreement with respect to which the Congress enacts an implementing bill under trade authorities procedures, and

(B) is not disclosed to the Congress before an implementing

bill with respect to that agreement is introduced in either House of Congress, shall not be considered to be part of the agreement approved by the Congress and shall have no force and effect under United States law or in any dispute settlement body.

(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 or trade agreements entered into under section 3803(b) of this title 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 such trade agreement or agreements, the other House separately agrees to a procedural disapproval resolution with respect to such trade agreement or agreements.

(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 Trade Negotiating Authority Act of 2009 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 Trade Negotiating Authority Act of 2009" 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 7 of this Act or this section with respect to the negotiations, agreement, or agreements; or

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

(2) Procedures for considering resolutions

(A) Procedural disapproval resolutions -

(i) in the House of Representatives -

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

(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 -

- (I) may be introduced by any Member of the Senate;
- (II) shall be referred to the Committee on Finance; and
- (III) may not be amended.

(B) The provisions of section 2192(d) and (e) of this title (relating to the floor consideration of certain resolutions in the House and Senate) apply to 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 reported in that House of Congress by the Committee on Ways and Means or the Committee on Finance, as the case may be.

(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.

(D) It is not in order for the Senate to consider any procedural disapproval resolution not reported by the Committee on Finance.

(c) Rules of House of Representatives and Senate Subsection (b) of this section, 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.

Section 9. Treatment of certain trade agreements for which negotiations have already begun

(a) Agreements submitted but not acted upon

Notwithstanding the prenegotiation notification and consultation requirement described in section 7(a) of this Act, if an agreement results from negotiations that were commenced pursuant to the Bipartisan Trade Promotion Authority Act of 2002 but not acted on by Congress prior to the expiration of that Act, subsections (b) or (c) of this section shall apply.

(b) Treatment of agreements concluded but not acted upon

In the case of any agreement to which subsection (a) of this

section applies –

(1) if the agreement was submitted to Congress pursuant to the Bipartisan Trade Promotion Authority Act and no resolution of disapproval pursuant to section 8(b) was approved prior to the adjournment of the Congress during which it was submitted, then the agreement may be resubmitted by the President subject to the procedures of section 6 of this Act.

(2) if the agreement was concluded and signed but not submitted to the Congress prior to the Expiration of the Bipartisan Trade Promotion Authority Act, then the President may submit the agreement subject to the procedures of section 6 of this Act.

"(c) Treatment of agreements begun but not concluded

In the case of any agreement to which subsection (a) of this

section applies, if the agreement is the product of a multilateral negotiation under the auspices of the World Trade Organization, no resolution of approval will be required under section 7 (b) of this Act, and the priorities contained in legislation in effect during the negotiations where not inconsistent with the priorities contained in this Act will continue to be effective with respect to those negotiations.

Section 10. Joint Committee on Trade

(a) Establishment

There shall be a joint congressional committee known as the Joint Committee on Trade.

(b) Members

(1) In general

By not later than 60 days after the date of 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 Joint Committee on Trade.

(2) Membership from the House

In each Congress, the Joint Committee on Trade 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 chairmen and ranking members of the Committees on Agriculture, Energy and Commerce, Financial Services, Foreign Affairs, Judiciary, and Small Business.

(C) Two additional members designated by the Speaker of the House and one additional member designated by the House Minority Leader.

(3) Membership from the Senate

In each Congress, the Joint Committee on Trade 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 members of the Committees on Agriculture, Banking, Commerce, Foreign Relations, Judiciary, and Small Business.

(C) Two additional members designated by the Senate Majority Leader and one additional member designated by the Senate Minority Leader.

(4) Accreditation

Each member of the Joint Committee described in shall be accredited by the United States Trade Representative on behalf of the President as an official adviser to the United States delegation in negotiations for any trade agreement to which this chapter applies. The Joint Committee on Trade 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 first chairman of the Joint Committee shall be the Chairman of the Committee on Ways Means who shall serve for the Congress in which this Act is enacted. The chairmanship shall alternate in subsequent Congresses between the Chairman of the Committee on Finance and the Chairman of the Committee on Ways and Means.

(c) Appointment and compensation of staff

Except as otherwise provided by law, the Joint Committee on Trade shall have power to appoint and fix the compensation of the Chief of Staff of the Joint Committee and such experts and clerical, stenographic, and other assistants as it deems advisable.

(d) Payment of expenses

The expenses of the Joint Committee on Trade shall be paid one-half from the contingent funds of the Senate and one-half from the contingent fund of the House of Representatives, upon vouchers signed by the chairman or the vice chairman.

(f) Duties and responsibilities

The Joint Committee on Trade shall have the following duties and responsibilities—

(1) Hold hearings on notifications submitted by the President and other related matters. Hearings may be closed to the public.

(2) Vote on a resolution of approval of proposed bilateral negotiations pursuant to section 7(b) of this Act;

(3) Conduct informal briefings for its members;

(4) Engage in oversight;

(5) Receive from the Speaker and the President *pro tempore* of the Senate, the reports submitted to the Congress pursuant to this Act;

(6) Serve as a resource for all Members of Congress on trade agreements;

- (7) Provide information to any Member of Congress upon request;
- (8) Issue periodic reports on trade agreements or particular issues within trade agreements;
- (9) Consult with the U.S. Trade Representative on the appointment of private sector advisory committee chairmen;
- (10) procure printing and binding;
- (11) make such expenditures as it deems advisable.

(g) Staff

Staff members of the Joint Committee with security clearance shall have access to all negotiating documents and be present in negotiating sessions as members of the delegation with the concurrence of the U.S. Trade Representative.

(h) Guidelines

The guidelines developed by 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 pursuant to section 3807 of the Bipartisan Trade Promotion Authority Act of 2002 for the Congressional Oversight Group shall apply to the Joint Committee on Trade. The United States Trade Representative may make such revisions to the guidelines as may be necessary from time to time.

Section 11. 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 8 of this title, 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) Trade Adjustment Assistance.

A description of the likely additional resource demands on the Trade Adjustment Assistance program resulting from increased trade and commerce brought about by the trade agreement.

(6) Cost analysis.

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

(b) Budget submission

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

Section 12. Application of certain provisions

For purposes of applying sections 2135, 2136, and 2137 of this title -

(1) any trade agreement entered into pursuant to this Act shall be treated as an agreement entered into under section 2111 or 2112 of this title, as appropriate; and

(2) any proclamation or Executive order issued pursuant to a trade agreement entered into pursuant to this Act shall be treated as a proclamation or Executive order issued pursuant to a trade agreement entered into under section 2112 of this title.

Section 13. Definitions

In this chapter:

(1) Uruguay Round Agreements

The term "Uruguay Round Agreements" has the meaning given that term in section 3501(7) of this title.

(2) World Trade Organization; WTO

The terms "World Trade Organization" and "WTO" mean the organization established pursuant to the WTO Agreement.

(3) WTO Agreement

The term "WTO Agreement" means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

(4) WTO member

The term "WTO member" has the meaning given that term in section 3501(10) of this title.

ADDITIONAL AUTHORITIES TO BE ADDED

- 1) Authorize the President to eliminate duties of items where there is no domestic production [competition]. (This would obviate the need for many parts of miscellaneous tariff bills.)
- 2) Provide authority for "fast track" approval of changes in existing bilateral/regional agreements that are made solely for purposes of harmonization per regional objective #3.