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Trade Promotion (Fast-Track) Authority: A Comparison of Bills Approved by the House and by the Senate with Notes on the Conference Report (H.R. 3009)

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Summary

On July 27, 2002, the House passed (215-212) the conference report on H.R. 3009 (H.Rept. 107-624), which contains, among other things, authorization of presidential trade promotion authority (TPA). The Senate is expected to vote on the report during the week of July 29. Under TPA, the President can negotiate trade agreements that would be considered by the Congress under expedited legislative procedures that limit debate and permit no amendments.

The conference report resulted from negotiations by Senate and House conferees over similar but different versions of the TPA legislation. This report provides an overview highlighting the most significant differences between the bills the House and Senate approved before the conference and the language the conference adopted in its report on H.R. 3009. It contains a side-by-side analysis of the versions of the TPA legislation the House and Senate conferees brought to the conference.

The Senate and House bills contained the same seven overall objectives, but the Senate bill added an eighth on small businesses that was retained in the conference report. The two bills had the same 13 principal objectives, but the Senate bill added four more on child labor, human rights, border taxes, and textile trade. All, except the one on human rights, were retained in the conference report. The conference added a principal objective on preserving and enforcing U.S. trade remedy laws.

The two bills and conference report have almost identical language on the President's authority to proclaim tariff changes and to negotiate trade agreements with expedited procedures for an implementing bill. A major difference was a provision in the Senate bill, called the Dayton-Craig amendment, which would allow any provision amending U.S. trade remedy laws to be stricken from an implementing bill. That language was in neither the House bill nor the conference report.

Both bills and the conference report have similar language on notification and consultation before and during negotiations, with special provisions for textiles and agriculture (the Senate bill and conference report also include fish and shellfish). They all require consultation with Congress before entering into an agreement. They would establish a Congressional Oversight Group. They have similar but not identical language allowing for withdrawal of expedited consideration of a trade agreement for lack of notice or consultation by the President. A major difference is the Senate bill and conference report would require notification by the President of proposed changes to trade remedy laws, although their provisions are different.

The bills and conference report provide for adjustment to the pre-notification requirements where negotiations are underway and require a plan by the President to address enforcement. The Senate bill and conference report would require the ITC to report on past agreements implemented under expedited procedures and would recognize a small business advocate in the USTR.

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Overview

On July 27, 2002, the House passed (215-212) the conference report on H.R. 3009 (H.Rept. 107-624), which contains, among other things, authorization of presidential trade promotion authority (TPA). The Senate is expected to vote on the report during the week of July 29. Under TPA the President can negotiate trade agreements that would be considered by the Congress under expedited legislative procedures that limit debate and permit no amendments.

The conference report resulted from negotiations by Senate and House conferees over similar but different versions of the TPA legislation. The Senate version was contained in Title XXI, The Bipartisan Trade Promotion Authority Act of 2002, of the omnibus trade bill H.R. 3009, *The Trade Act of 2002* (hereafter referred to as the Senate bill).¹

The House version of the TPA was originally contained in a stand-alone bill, H.R. 3005, *The Bipartisan Trade Promotion Authority Act of 2001*, which was passed on December 6, 2001. However, on June 26, 2002, the House, in preparation for the conference with the Senate, passed H.Res. 450, a motion to concur with the Senate in the form of a substitute to the Senate bill. H.Res. 450 (hereafter referred to as the House conference version or the House bill) contained the House version of the trade legislation with provisions set in parallel with the Senate bill's provisions. The TPA provisions of the House conference version were contained in Title XXI, *The Bipartisan Trade Promotion Authority Act of 2002*, and were virtually identical to provisions contained in H.R. 3005, as passed by the House in December 2001.

This report begins with an overview of the major provisions, highlighting the most significant differences between the bills that the House and Senate conferees brought to the conference and highlighting the language the conference adopted in

¹ In addition to TPA, H.R. 3009 contains provisions authorizing the Andean Trade Preferences Act (ATPA) program, the Trade Adjustment Assistance (TAA) program, and the Generalized System of Preferences (GSP) program. This report only focuses on the TPA portion of the bill. For a list of CRS products on these and other issues in H.R. 3009, see CRS Issue Brief IB10084, *Trade Promotion Authority (Fast-Track Authority for Trade Agreements): Background and Developments in the 107th Congress*, by (name redacted).

its report on H.R. 3009. Perhaps the most controversial aspect of the conference report was eliminating the so-called Dayton-Craig amendment of the Senate bill that pertained to U.S. trade remedy laws. Instead, the conferees added other provisions regarding U.S. trade remedy laws. Following the overview, the report provides a side-by-side analysis of the House and Senate bills.

Short Title and Findings

Both bills have the same short title—Bipartisan Trade and Promotion Authority Act of 2002. The two bills contain two identical findings that relate national security and trade. Each bill contains a third finding on WTO dispute settlement procedures which are similar but not identical. The third finding was not contained in the original H.R. 3005, as passed by the House in December 2001, but was added as part of the House Conference version by H.Res. 450. The conference report includes the first two findings, which are identical in the House and Senate bills, and includes a third finding that combines language from both bills.

Trade Negotiating Objectives

The legislation sets down what the Congress considers to be the goals the President must accomplish in negotiating trade agreements in order for those agreements to receive expedited treatment under the Trade Promotion Authority (TPA). This section is divided into subsections on “Overall Trade Negotiating Objectives,” “Principal Trade Negotiating Objectives,” “Promotion of Certain Priorities,” “Consultations,” and “Adherence to Obligations Under Uruguay Round Agreements.” The language in the two original bills in this section was similar, although the Senate bill added several trade negotiating objectives. In the conference report, the Conference adopted the House version in some cases, the Senate language in some cases, or new language in others cases.

Overall Trade Negotiating Objectives. Using identical language, the two bills contain seven objectives regarding the use of trade agreements to promote U.S. and world economic growth and living standards and to promote such social goals as respect for the environment and for workers’ and children’s rights. The Senate bill included an eighth objective to ensure equal treatment for small business. The conference report adopted the eighth objective and added a ninth, to promote universal ratification and full compliance with the International Labor Organization’s (ILO) convention no. 182 prohibiting and acting against the worst forms of child labor.

Principal Trade Negotiating Objectives. The original Senate and House bills contained 13 specific objectives, with similar wording, that pertain to: eliminating barriers in manufactured and agricultural goods trade and in services trade, in foreign investment, and in electronic commerce; the establishment of rules and standards regarding anti-corruption, intellectual property rights (IPR) protection and labor and environment protection; and the operation of the World Trade Organization (WTO). The Senate bill added language regarding trade in autos and auto parts (which was dropped in the conference report). The Senate bill also expanded the objective regarding foreign investment to include language requiring

that foreign investors be accorded rights in the United States no greater than those accorded U.S. investors in the United States and language regarding the settlement of investor-government disputes in foreign investment, including the discouragement of frivolous claims (all of which was adopted in the conference report). Regarding IPR, the Senate bill added language requiring respect for the declaration on public health adopted at the November 2001 WTO Ministerial in Doha, Qatar (which was included in the conference report). In addition, the Senate bill strengthened language on export subsidies contained in the objective regarding agriculture. (The Conference adopted the House version.) The Senate bill also added language regarding settling disputes within the WTO by ensuring that WTO bodies adhere to established standards when adjudicating disputes, which the Conference adopted with slight modifications.

The most extensive differences between the House and Senate bills in this subsection were the four objectives that the Senate bill added. They included:

- ! a lengthy objective on discouraging the use of the worst forms of child labor practices (adopted in the conference report by in a compressed form);
- ! an objective for promoting human rights and democracy (dropped by the Conference);
- ! an objective to seek revision of WTO rules regarding border taxes (adopted by the Conference), and
- ! an objective to promote trade opportunities for U.S. textile producers (adopted by the Conference but in compressed form).

The House-Senate conference added a principal objective not contained in either the Senate or House bill that requires negotiators to ensure the U.S. ability to enforce its trade remedy laws and to address and remedy market distortions that lead to unfair trade practices.

Promotion of Certain Priorities. Using similar language, the two bills listed 12 Presidential actions that the Congress considers necessary in order to maintain U.S. competitiveness. They relate to the protection of labor rights and the environment and preserving the ability of the United States to implement its trade remedy laws. The House-Senate conference eliminated objective (9) pertaining to trade remedy laws (which was added in the conference report to the “Principal Negotiating Objectives” section) and substituted a requirement that the President submit a report on the extent to which the country or countries that are parties to an agreement reached under the TPA authority have laws against the exploitation of child labor.

Consultations. The Senate and House bills contained identical language requiring the U.S. Trade Representative (USTR) to consult with congressional revenue committees and other committees with jurisdiction, with the Congressional Oversight Group, and with congressional trade advisors. The consultation requirements are also addressed later in the bill. The Conference adopted the language of the two bills.

Adherence to Obligations Under Uruguay Round Agreements.

Identical language in both bills required the President to take into account the degree to which trading partners adhere to obligations under the Uruguay Round Agreements. The conference report adopted the language contained in the two bills.

Trade Agreements Authority

The two bills and the conference report have almost identical language (except with regard to import sensitive agricultural products) on the President's authority to negotiate tariff agreements where changes in tariff levels would go into effect by proclamation. They would set the same limits on allowed tariff changes. They would require that such agreements be entered into before June 1, 2005, or by June 1, 2007 if expedited procedures for an implementing bill are extended (see below).

Under the provisions of the two bills and the conference report, the President would have to enter into other tariff and nontariff trade agreements by the same deadlines as above. These agreements would have to make progress in meeting the negotiating objectives, and the President would have to satisfy the outlined consultation and assessment requirements. Legislation to implement these trade agreements would be considered under expedited procedures ("trade authorities procedures"), if provisions of the legislation: (1) approved the trade agreement and any statement of administrative action; and (2) were necessary or appropriate to implement the trade agreement, if statutory changes are required to implement the trade agreement. Such legislation is called an "implementing bill."

Under both bills and the conference report, trade authorities procedures would apply to an implementing bill for trade agreements entered into by June 1, 2005, or by June 1, 2007 if: (1) the President requests the extension (request and other information due by March 1, 2005); and (2) neither house of Congress adopts an extension disapproval resolution before June 1, 2005. The bills would require a report by private sector advisors on the President's request for extension; the Senate bill also would require a related report by the U.S. International Trade Commission (ITC). Both bills would allow the President to commence negotiations where determined to be feasible, timely, and beneficial.

An important difference between the bills, however, was a highly controversial provision, commonly called the Dayton-Craig amendment. This amendment was in the Senate bill (Section 2103(b)(4)) and not in the House bill. The Dayton-Craig amendment states that trade authorities procedures would not apply to any provision in an implementing bill that modifies or amends any U.S. law that provides remedies from unfair foreign trade practices (e.g., U.S. antidumping, countervailing duty, and safeguard laws). Such a provision would be stricken from the implementing bill if: (1) any Senator makes a point of order against the provision; and (2) the point of order is sustained by the Presiding Officer. The point of order may be waived or appealed (before or after action by the Presiding Officer, respectively) with the support of a majority of Senators. Because the Dayton-Craig amendment could increase the uncertainty of implementing any negotiated change to trade remedy laws, and therefore might reduce the Administration's flexibility in negotiations, the Administration was forcefully opposed to the provision. Supporters, however, argued that the amendment was necessary to protect the U.S. ability to address unfair

foreign trade practices that hurt U.S. firms and U.S. workers. The conference report does not include the Dayton-Craig amendment.

Consultations and Assessment

The bills and the conference report have virtually identical language on notice and consultation before negotiation. For some tariff agreements and for nontariff agreements, the President, at least 90 days before starting negotiations, would be required to provide notice of intent to enter into negotiations and other information. Before and after giving notice, the President would have to consult with the revenue committees and such other committees the President deems appropriate, and the newly established Congressional Oversight Group (COG, described later).

The bills have similar, but not identical, language on sector-specific negotiations. For *agriculture* negotiations, both bills would require the President to assess how U.S. tariffs on agricultural products compare to foreign tariffs on similar products and decide whether negotiations will address any disparity. Both bills require the President to consult with the revenue committees and the agriculture committees. They both would establish special consultation and assessment procedures for import sensitive agricultural products, but the Senate bill adds for these products that the USTR consult on foreign export subsidy programs, and the Senate bill has a broader definition of import sensitive agricultural products. The Senate bill, but not the House bill, has a provision requiring the President to consult with specified committees on negotiations directly related to *fish or shellfish* trade and to keep the committees informed of negotiations on an ongoing basis. Both bills have identical language requiring the President to assess U.S. and foreign tariffs on *textiles and apparel* and to consult with the revenue committees on tariffs and negotiating objectives. The conference report follows the language in the Senate bill, including the requirement that the President consult on negotiations related to fish or shellfish trade.

Both bills and the conference report require that, before entering into some tariff agreements and nontariff agreements, the President must consult with the revenue committees, other committees of jurisdiction, and the COG. They specify what the consultation should cover.

A major difference among the bills and the conference report concerns notification by the President of proposed changes to trade remedy laws. The House bill has no provision for these specific types of changes. The Senate bill provides that at least 90 days before entering into a trade agreement, the President must notify the revenue committees of any such proposed change. It requires the President to report why the amendments are seen as necessary and why they are consistent with a related trade negotiating objective. The Senate bill would require that within 60 days of the President's notification, the chairman and ranking member of the revenue committees in each house would report to their respective houses on the proposed amendments.

The conference report provides that at least 180 days before entering into a trade agreement, the President must report to the revenue committees on: (1) the range of proposals advanced in the negotiations with respect to that agreement, that may be

in the final agreement, and that could require amendments to the laws covering antidumping and countervailing duties and safeguards: and (2) how these proposals relate to objectives described in section 2102(b)(14) [the principal negotiating objective on trade remedy laws]. With respect to a trade agreement with Chile or with Singapore, the President must report at least 90 days before entering into the trade agreement. The conference report provides that a resolution may be introduced with respect to the President's report. This resolution would state that the proposed changes in the President's report were inconsistent with the negotiating objectives described in section 2102(b)(14). Special legislative procedures would apply to the resolution as long as the revenue committee of that chamber has not reported out another resolution with respect to the President's report and the committee has not reported out a disapproval resolution under section 2105(b) [lack of notice or consultations].

The two bills and the conference report have virtually identical language requiring private sector advisors to submit a report on trade agreements not later than 30 days after the President notifies Congress of the intent to enter into a trade agreement. They also have almost identical language requiring the President to give details of the agreement to the ITC before entering into the agreement, and requiring the ITC to submit an economic assessment to Congress within 90 days after the President enters into the agreement.

Implementation of Trade Agreements

The House and Senate bills set down procedures for Presidential notification of Congress and submission to Congress of legislation to implement trade agreements negotiated under the trade promotion authority. The procedures include deadlines and required supporting information. The Senate bill prohibited any part of a trade agreement, not previously disclosed to Congress, from being considered for the expedited legislative procedures under the trade promotion authority. The conference report retained the Senate language.

In addition, the two bills set down limitations of trade authorities procedures which stipulate that an implementing bill will not receive expedited treatment if, within a 60-day period, both Houses of Congress agree to a procedural disapproval resolution regarding the trade agreement because of the lack of notification or consultation with Congress on the part of the President. The bills set down procedures for considering procedural disapproval resolutions. The Senate bill added a provision requiring the Secretary of Commerce to submit a report on U.S. strategy to address what the bill refers to as instances where WTO dispute settlement panels and the WTO Appellate Body have added to U.S. obligations through their decisions on U.S. trade practices. If the report is not provided, the TPA would not apply to the implementing bill. The conference report adopted the Senate language but added that the Secretary of Commerce must consult with the Secretary of State, the Secretary of the Treasury, the Attorney General, and the USTR.

Treatment of Certain Trade Agreements for Which Negotiations Have Already Begun

The Senate and House bills and the conference report are identical in allowing an exemption from pre-notification requirements for certain trade agreements. This exemption would apply to a trade agreement that: (1) is entered into under the WTO, entered into with Chile, entered into with Singapore, or establishes a Free Trade Area for the America; and (2) results from negotiations that started before enactment of the TPA bill. The Conference adopted the language contained in the two bills.

Congressional Oversight Group

The two bills and the conference report have essentially the same provisions on the establishment of a new congressional advisory body called the Congressional Oversight Group (COG). Members of COG would be the chairman and ranking member of the revenue committees, three other members from each of those committees (no more than two from the same party), and the chairman and ranking member from any other committees with jurisdiction. COG members would be official advisers to the U.S. delegation in trade negotiations. They would consult with and provide advice to the USTR on the formulation of objectives, negotiating strategies, and other trade matters.

Both bills and the conference report would require the USTR, in consultation with the chairman and ranking member of the revenue committees, to develop guidelines for the exchange of information between the COG and the USTR. The guidelines would provide for, among other things: regular, detailed briefings on negotiating objectives, access to documents, coordination during negotiations, and consultation on compliance and enforcement. The only difference of note between the House and Senate bills is that the Senate bill would require the USTR to include in the guidelines a time-frame for submitting a labor rights report. The conference report includes this Senate provision.

Other Provisions

Both bills and the conference report have identical language requiring the President to submit, along with the final text of the trade agreement, a plan for implementing and enforcing the trade agreement. The plan would have to include (along with cost analyses) descriptions of additional border personal needed, additional personnel for monitoring and implementing the trade agreement, additional U.S. Customs Service equipment, and the impact on State and local governments.

The bills and conference report also have identical language stating that trade promotion authority is likely to increase the trade activities of the primary committees of jurisdiction and Members (through the creation of COG), and that the primary committees of jurisdiction should have adequate staff for these increased activities.

The Senate bill (not the House bill) would require the ITC to report on the five agreements implemented under expedited procedures in the past. The conference report includes this provision.

The Senate bill (not the House bill) includes provisions on a small business advocate. It would direct the USTR to seek an advocate in the WTO for small- or medium-sized businesses and to report annually to the revenue committees on these efforts. It also states that the Assistant USTR for Industry and Telecommunications shall be responsible for ensuring that small business interests are considered in trade negotiations. The conference report includes only the provision on the Assistant USTR for Industry and Telecommunications.

Short Title and Findings	
Section 2101 of House Conference Version	Section 2101 of Senate Bill
<p>The title of the legislation is the “Bipartisan Trade Promotion Authority Act of 2002.” Section 2101(a)</p> <p>Lists the two findings in House-passed H.R. 3005 that (1) expansion of international trade is vital to U.S. security; and (2) national security depends on economic security, which is founded on a vibrant and growing U.S. industrial base. Adds: (3) recent pattern of decisions by dispute settlement panels and the Appellate Body of the WTO have imposed obligations and restrictions on the use of antidumping and countervailing measures. Section 2101(b)</p>	<p>Identical, except the year is “2002.” Section 2101(a)</p> <p>Includes the two findings from House-passed H.R. 3005 and adds: (3) support for continued trade expansion requires that dispute settlement procedures not add to or diminish the rights and obligations under such agreements (includes reference to problems with actions by dispute settlement panels and the World Trade Organization (WTO) Appellate Body. Section 2101(b)</p>

Trade Negotiating Objectives	
Section 2102 of House Conference Version	Section 2102 of Senate Bill
<p>Overall Negotiating Objectives</p> <p>Lists 7 overall objectives: (1) obtain more open, equitable, and reciprocal market access; (2) obtain reduction in or elimination of trade barriers and distortions; (3) promote stronger international trading disciplines, including dispute settlement; (4) promote U.S. and world economic growth, living standards, and employment; (5) ensure mutually supportive trade and environmental policies; (6) promote respect for rights of workers and children; and (7) seek provisions to discourage weakening environmental or labor laws to encourage trade. Section 2102(a)</p> <p>Principal Trade Negotiating Objectives</p> <p>Section 2102 (b) lists 13 principal negotiating objectives to (1) expand market opportunities for U.S. exports by reducing or eliminating trade barriers and distortions to trade; (2) reduce or eliminate barriers to international trade in services; (3) reduce or eliminate barriers to trade-related foreign investment and secure for investors rights comparable to those available in the United States; (4) further promote protection of intellectual property rights (IPR) and secure market access opportunities for U.S. persons that rely on IPR protection; (5) obtain wider and broader application of transparency through greater public access to information and more openness at the WTO; (6) obtain anti-corruption standards that prohibit attempts to influence government actions affecting trade; (7) seek improvement of the WTO and multilateral trade agreements by expanding coverage and expanding country participation; (8) establish disincentives for governments to use regulatory practices to give a competitive advantage to domestic interests; (9) attempt to ensure open and nondiscriminatory rules covering electronic commerce; (10) obtain reciprocal trade in agriculture so opportunities are substantially equivalent in U.S. and foreign markets, and achieve fairer and more open conditions for commodities; (11) ensure protections for labor and the environment, such as assurance that parties will not fail to enforce their own environmental and labor laws; (12) strengthen dispute settlement and enforcement of trade agreements; and (13) achieve specified objectives in WTO extended negotiations on</p>	<p>Includes identical House-passed provisions and adds:</p> <p>(8) to ensure fair and equal treatment for small businesses. Section 2102(a)(8)</p> <p>Identical, with the following exceptions:</p> <p>trade barriers and distortions.</p> <p>Adds that specifies that the U.S. exports referred to include motor vehicles and vehicle parts. Section 2102(b)(1)(A)</p> <p>foreign investment.</p> <p>Adds language that negotiators should ensure that in the United States, foreign investors are not accorded greater rights than U.S. investors; and a section on seeking to establish standards for fair and equitable treatment consistent with U.S. legal principles and practice, including the principle of due process. Sections 2102(b)(3) and 2102(b)(3)(E)</p> <p>Adds to provision on investor-government disputes: mechanisms to deter the filing of frivolous claims; procedures to enhance public input into the formulation of government positions; and establishment of a single appellate body to provide coherence to the interpretations of investment provisions in trade agreements. Section 2102(b)(3)(G)</p> <p>Does not include House language (in section 2(b)(3)(G)) on an appellate or similar review mechanism to correct manifestly erroneous interpretations of law.</p> <p>intellectual property rights.</p> <p>Adds language that it should be an objective to respect the Declaration on the</p>

Section 2102 of House Conference Version	Section 2102 of Senate Bill
<p>civil aircraft and rules of origin. Section 2102(b)</p>	<p>TRIPS Agreement and Public Health adopted at the November 2001 WTO Ministerial. Section 2102(b)(4)(C)</p> <p>agriculture.</p> <p>Stronger language on export subsidies calls for elimination of all export subsidies (House includes reduction), while maintaining food aid and market development and export credit programs (not in House). Adds goals of completion of a WTO round by 1/1/05, and broad market access in multiple sets of negotiations with attention to effect on import-sensitive commodities. Section 2102(b)(10)(A)</p> <p>human rights and democracy.</p> <p>Adds as principal objective (12) the objective to obtain provisions in trade agreements that require parties to adhere to internationally recognized civil, political, and human rights. Section 2102(b)12</p> <p>dispute settlement.</p> <p>Adds improved adherence by WTO dispute panels and by the WTO Appellate Body to the standard of review applicable under the relevant WTO Agreement, including greater deference to the fact finding and technical expertise of national investigating authorities. Section 2102(b)(13)(C)</p> <p>border taxes.</p> <p>Adds as objective (14): obtain a revision of WTO rules on the treatment of border adjustments to redress the disadvantage to countries that depend on direct taxes for revenue rather than indirect taxes. Section 2102(b)(14)</p> <p>textile negotiations.</p> <p>Adds as principal objective (16) provision regarding textile and apparel negotiations: that in general, it should be an objective to obtain competitive opportunities for U.S. exporters substantially equivalent to those afforded foreign producers in the U.S. market. Section 2102(b)16</p> <p>worst forms of child labor.</p> <p>Adds as principal objective (17) provisions regarding the treatment of trade in products</p>

Section 2102 of House Conference Version	Section 2102 of Senate Bill
<p>Promotion of Certain Priorities</p> <p>The President must take certain actions in order to address and maintain U.S. competitiveness in the global economy. These 12 actions (1) seek greater WTO-ILO cooperation; (2) seek consultative mechanisms among parties to promote respect for core labor standards; (3) seek consultative mechanisms among parties to develop and implement standards for protection of the environment; (4) conduct environmental reviews of future trade agreements; (5) review the impact of future trade agreements on employment; (6) take into account other domestic objectives such as health and safety, security, and consumer interests; (7) have the Secretary of Labor consult with other countries regarding their labor laws; (8) report to Congress on child labor laws in parties to prospective agreements; (9) (A) preserve the ability of the United States to enforce rigorously its trade laws, including antidumping and countervailing duty laws; (B) ensure that United States exports are not subject to the abusive use of trade laws, including antidumping and countervailing duty laws by other countries [added by H.Res. 450]; (10) continue to promote consideration of multilateral environmental agreements; (11) report to the revenue committees on the effectiveness of a trade remedy permitted by a trade agreement; and (12) seek a consultative mechanism with other parties to examine how currency movements or manipulation affect trade. Sections 2102(c)(1)-2102(c)(12)</p>	<p>resulting from the use of the worst forms of child labor by trading partners. Section 2102(b)17</p> <p>Identical, except:</p> <p>Adds language in (5) that the review should take into account the impact on job security, on the level of compensation of new jobs and existing jobs, on the displacement of employment, and on regional distribution of employment and that the resulting report must be made public. Section 2102(c)(5)</p> <p>Replaces (8) in House bill with a related provision that requires the President to submit to the revenue committees a meaningful labor rights report on parties to a prospective agreement. Section 2102(c)(8)</p> <p>Language in (9)(B) differs from language in House bill by specifically including safeguards under trade remedy laws, and adding that the President address and remedy market distortions that lead to dumping and subsidization, including overcapacity, cartelization, and market-access barriers. Section 2102(c)(9)</p>
<p>Consultations</p> <p>During negotiations, the USTR shall consult closely and on a timely basis (including in most cases immediately before initialing an agreement) with, and keep fully apprized of the negotiations, the Congressional Oversight Group (COG), committees of jurisdiction, current congressional trade advisors, the revenue committees, and (with regard to negotiations relating to agricultural trade) the agriculture committees. Section 2102(d)</p>	<p>Identical. Section 2102(d)</p>
<p>Adherence to Obligations Under Uruguay Round Agreements</p> <p>In determining whether to negotiate with another country, the President shall consider</p>	<p>Identical. Section 2102(e)</p>

Section 2102 of House Conference Version	Section 2102 of Senate Bill
the other country's adherence to its obligations under the Uruguay Round Agreements. Section 2102(e)	

Trade Agreements Authority	
Section 2103 of House Conference Version	Section 2103 of Senate Bill
<p>Agreements Regarding Tariff Barriers:</p> <p>The President may proclaim tariff cuts for agreements entered into before June 1, 2005, or before June 1, 2007 if expedited procedures are extended. Section 2103(a)(1)</p> <p>Tariffs over 5% ad valorem may not be reduced by more than half, nor may tariffs be increased. A special rule applies for certain agricultural products. Section 2103(a)(2)</p> <p>Other rules are stipulated (e.g., rounding, exemption of reductions from staging). Sections 2103(a)(3)-(7)</p> <p>Agreements Regarding Tariff and Nontariff Barriers</p> <p>The President may enter into a trade agreement on duties or other import restrictions before June 1, 2005 or before June 1, 2007, if expedited procedures are extended. Section 2103(b)(1)</p> <p>A trade agreement may be entered into only if such agreement makes progress in meeting the overall and principal negotiating objectives and the President satisfies the conditions for consultation and assessment. Section 2103(b)(2)</p> <p>Expedited procedures, called “trade authorities procedures,” apply to a bill which contains (1) a provision approving the trade agreement and the statement of administrative action if any; and (2) provisions that are necessary or appropriate to implement the trade agreement, if changes in existing laws or new statutory authority are required to implement the trade agreement. This type of bill is called an “implementing bill.” Section 2103(b)(3)</p>	<p>Almost identical. Section 2103(a)</p> <p>(The only notable difference regards “import sensitive agricultural products.” The House bill describes such products under Section 3(a)(2)(B), whereas the Senate bill defines them under “Definitions” [Section 2113(5)]. The terms are similar but not identical in the two bills.)</p> <p>Includes almost identical House-passed provisions and adds:</p> <p>(4) Expedited procedures shall not apply to any provision in an implementing bill that modifies or amends any U.S. law that provides safeguards from unfair foreign trade practices. Such a provision shall be stricken from the implementing bill, if any Senator makes a point of order against the provision, and the point of order is sustained by the Presiding Officer. Before the Presiding Officer rules on a point of order, any Senator may move to waive the point of order, and the point of order will be waived by an affirmative vote of a majority of Senators. After the Presiding Officer rules on a point of order, the ruling is sustained unless, on appeal by any Senator, a majority of Senators vote not to sustain the ruling. Rules are given for debate on a motion to waive or on an appeal. Section 2103(b)</p>

Section 2103 of House Conference Version	Section 2103 the Senate Bill
<p>Extension Disapproval Process for Congressional Trade Authorities Procedures</p> <p>Trade authorities procedures shall apply to an implementing bill for trade agreements that were entered into by June 1, 2005, or by June 1, 2007 if two conditions are met: (1) the President requests such extension; and (2) neither House of Congress adopts an extension disapproval resolution before June 1, 2005. Section 2103(c)(1)</p> <p>If the President decides that trade authorities procedures should be extended, the President must submit to Congress, not later than March 1, 2005, a written report containing a request for such extension, together with specified information. Section 2103(c)(2)</p> <p>The President must promptly report to the private sector Advisory Committee for Trade Policy and Negotiations (ACTPN) on the intent to pursue the 2-year extension in trade authorities procedures. ACTPN must report to Congress no later than May 1, 2005, on progress in the negotiations and whether the extension should be granted. Section 2103(c)(3)</p> <p>The reports by the President and by ACTPN on the extension will be classified. Section 2103(c)(4)</p> <p>The language and procedure for consideration of the extension disapproval resolution are described. Section 2103(c)(5)</p>	<p>Almost identical but also includes:</p> <p>The President must promptly inform the ITC of the President's decision to submit the report under Section 2103(c)(2) requesting an extension of trade authorities procedures. The ITC must report to Congress no later than May 1, 2005, on the economic impact on the United States of all trade agreements implemented between enactment of this Act and the date on which the President decides to seek the extension. Section 2103(c)(3)(B)</p>
<p>Commencement of Negotiations</p> <p>In cases where the President determines that certain negotiations are feasible and timely and could benefit 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 already parties. The list of such sectors includes agriculture, industrial and capital goods, environmental technology and services, civil aircraft, and other mentioned sectors. Section 2103(d)</p>	<p>Identical. Section 2103(d)</p>

Consultations and Assessment	
Section 2104 of House Conference Version	Section 2104 of Senate Bill
<p>Notice and Consultation Before Negotiation</p> <p>With regard to trade agreements negotiated under Section 2103(b), the President shall: (1) provide, at least 90 calendar days before starting negotiations, written notice of intent to enter into negotiations and set forth the intended starting date, specific objectives, and whether the President will seek an agreement or changes to an existing agreement; (2) before and after the above notice, consult with the revenue committees, such other committees as the President deems appropriate, and the COG. Section 2104(a)</p>	<p>Virtually identical. Section 2104(a)</p>
<p>Negotiations Regarding Agriculture</p> <p>Before undertaking negotiations related to section 2102(b)(10)(A)(i) [foreign tariffs and other charges on U.S. agricultural exports], the President shall assess whether U.S. tariffs bound on these products are lower than tariffs bound on U.S. exports in the other country or worldwide, and whether the negotiation gives an opportunity to address any disparity. The President shall consult with the revenue committees and agriculture committees on the results of the assessment, tariff reductions, and negotiating objectives. Section 2104(b)(1)</p> <p>The USTR shall identify certain import sensitive agricultural products and consult with the revenue and agriculture committees on any further tariff cuts and whether the products face unjustified sanitary or phytosanitary restrictions. The USTR shall request an ITC assessment of the economic effects of any tariff reductions, and notify the revenue and agriculture committees of any intent to seek tariff cuts currently or in the future. Section 2104(b)(2)</p>	<p>Identical, except subsection title reads “...Agriculture and Fishing Industry” and:</p> <p>Expands import-sensitive agricultural products to include agricultural products subject to tariff-rate quotas. Section 2104(b)(2)(A)(i)</p> <p>Adds that for import-sensitive agricultural products, the USTR shall consult with the revenue and agriculture committees also on whether negotiating partners maintain trade-distorting export subsidy programs and the impact of such programs on U.S. producers. Section 2104(b)(2)(A)(ii)(III)</p> <p>Adds that before starting or continuing negotiations directly related to fish or shellfish trade, the President must consult with the Ways and Means Committee and the Resources Committee in the House and with the Finance Committee and the Commerce, Science, and Transportation Committee of the Senate, and keep the committees informed of negotiations on an ongoing and timely basis. Section 2104(b)(3)</p>
<p>Negotiations Regarding Textiles</p> <p>Before undertaking negotiations on textiles and apparel products with another country, the President shall assess whether U.S. tariffs bound on such products are lower than the other country’s bound tariffs and whether the negotiation gives an opportunity to address any disparity. The President shall consult with the revenue committees on the results of the assessment, tariff reductions, and</p>	<p>Identical. Section 2104(c)</p>

Section 2104 of House Conference Version	Section 2104 of Senate Bill
<p>applicable negotiating objectives. Section 2104(c)</p> <p>Consultation with Congress Before Agreements Entered Into</p> <p>Before entering into an agreement under Section 2103(b), the President shall consult with the revenue committees, other committees with jurisdiction, and the COG. Section 2104(d)(1)</p> <p>The consultation shall cover the nature of the agreement, how the agreement will achieve applicable policies and objectives, and implementation of the agreement (including the effect on existing laws). Section 2104(d)(2)</p>	<p>Contains virtually identical House language but adds:</p> <p>At least 90 calendar days before entering into a trade agreement, the President shall notify the revenue committees of any amendments to Title VII of the Tariff Act of 1930 or Chapter 1 of Title II of the Trade Act of 1974 [laws covering antidumping and countervailing duties and safeguards] to be proposed in an implementing bill. Section 2104(d)(3)(A)</p> <p>On the date of the above notification, the President must report to the committees the reasons the amendments are necessary and why they are consistent with the purposes, policies, and objectives of Section 2102(c)(9) [the President shall preserve the ability to rigorously enforce U.S. trade laws]. Section 2104(d)(3)(B)</p> <p>Within 60 days of above notification, the chairman and ranking member of the revenue committees in each house, based on consultations with their committee members, shall report to their respective houses on whether the proposed amendments are consistent with the purposes, policies, and objectives of Section 2102(c)(9). The reports shall contain any differences in views of the chairmen and ranking members. Sections 2104(d)(3)(C)-(D)</p>
<p>Advisory Committee Reports</p> <p>Private sector advisors shall submit reports on Section 2103(a) and Section 2103(b) trade agreements to the President, Congress, and USTR, not later than 30 days after the President notifies Congress of the intent to enter into the trade agreement (as required under Section 2105(a)(1)). Section 2104(e)</p>	<p>Virtually identical. Section 2104(e)</p>
<p>ITC Assessment</p> <p>The President, at least 90 calendar days before entering into an agreement under Section 3(b), shall give the ITC details of the agreement and request that the ITC prepare and submit an assessment of the agreement. Not later than 90 calendar days after the President enters into the agreement, the ITC shall submit to the President and to Congress a</p>	<p>Virtually identical. Section 2104(f)</p>

Section 2104 of House Conference Version	Section 2104 of Senate Bill
report assessing various economic impacts of the agreement. The ITC shall review and assess empirical literature regarding the agreement. Section 2104(f)	

Implementation of Trade Agreements	
Section 2105 of House Conference Version	Section 2105 of Senate Bill
<p>In General</p> <p>Any agreement under Section 2103(b) shall enter into force if, and only if: (1) the President, at least 90 calendar days before entering into an agreement, notifies the House and the Senate of the intention to enter into the agreement, and publishes notice in the Federal Register; (2) within 60 days of entering into the agreement, the President submits to Congress a description of legal changes required for compliance with the agreement; (3) after entering into the agreement, the President submits to Congress the text of the agreement, together with a draft implementing bill, a statement of administrative action, and other supporting information; and (4) the implementing bill is enacted. Section 2105(a)(1)</p> <p>Supporting information to be submitted along with the text of the agreement and the draft implementing bill consists of an explanation of how the implementing bill and administrative action might change existing law, a statement of how the agreement makes progress in achieving the objectives, and other information as described. Section 2105(a)(2)</p> <p>The implementing bill shall provide that the benefits and obligations under the agreement apply only to the parties to the agreement. The implementing bill may provide that the benefits and obligations do not apply uniformly to all parties. Section 2105(a)(3)</p>	<p>Contains virtually identical House language and adds:</p> <p>The President must also transmit the notification and report on trade remedy laws required under Section 2104(d)(3)(A) and (B) to the revenue committees when he makes his notification before entering into an agreement. Section 2105(a)(1)(A)(ii)</p> <p>The following additional supporting information must be submitted along with the text of the agreement and other documents: in the event that the congressional reports in Sections 2104(d)(3)(C) and (D) find that proposed amendments to trade remedy laws are inconsistent with the purposes, policies, and objectives of Section 2102(c)(9), the President must explain why those findings are incorrect. Section 2105(a)(2)(B)(ii)(VI)</p> <p>Any agreement or other understanding with a foreign government (whether oral or in writing) that relates to a trade agreement enacted under trade authorities procedures and not disclosed to Congress before introduction of implementing legislation, shall not be considered part of the agreement approved by Congress and shall have no force under U.S. law or in any dispute settlement body. Section 2105(a)(4)</p>

Section 2105 of House Conference Version	Section 2105 of Senate Bill
<p>Limitations of Trade Authorities Procedures</p> <p>Trade authorities procedures shall not apply to any implementing bill for a Section 2103(b) trade agreement if, during the 60-day period beginning on the date that a house agrees to a procedural disapproval resolution for lack of notice or consultations, the other house separately agrees to a procedural resolution with regard to the same trade agreement. The term “procedural disapproval resolution” is defined. Section 2105(b)(1)</p> <p>The procedures for considering procedural disapproval resolutions are given. Section 2105(b)(2)</p> <p>Provisions covering procedural disapproval resolutions (Section 5(b)) and extension disapproval resolutions (Section 3(c)) are enacted by Congress as an exercise of the rulemaking power of the House and the Senate and with full recognition of the constitutional right of either house to change the rules. Section 2105(c)</p>	<p>Identical (with some changes in numbering), except for the following:</p> <p>Adds that a procedural disapproval resolution shall be referred to the Finance Committee and may not be amended, and it is not in order for the Senate to consider a procedural disapproval resolution not reported by the Finance Committee. [Similar language referring to the Ways and Means Committee and Rules Committee is in the House-passed bill.] Sections 2105(b)(1)(C)(i)(bb) and (cc) and (ii)(iv)</p> <p>Adds a section requiring that, prior to December 31, 2002, the Secretary of Commerce transmit to Congress a report with the U.S. strategy for correcting instances in which WTO dispute settlement panels and Appellate Body have added to obligations or diminished rights as described in Section 2101(b)(3). Trade authorities procedures shall not apply to an implementing bill with regard to an agreement negotiated under the WTO unless the Commerce Secretary has issued the report in a timely manner. Section 2105(b)(2)</p>

Treatment of Certain Trade Agreements for Which Negotiations Have Already Begun	
Section 2106 House Conference Version	Section 2106 of Senate Bill
<p>If a trade agreement under Section 2103(b) is entered into under the WTO, is entered into with Chile or with Singapore, or establishes a Free Trade Area for the Americas, and (2) results from negotiations that started before enactment, then different treatment would apply. Section 2106(a)</p>	<p>Virtually Identical. Section 2106(a)</p>
<p>Under that treatment, the applicability of the trade authorities procedures to implementing bill shall be determined without regard to certain requirements regarding notification before initiating negotiations. Also, the President would be required to notify the Congress of the negotiations and consult regarding the negotiations with the revenue committees, other committees as the President deems appropriate, and the COG. Section 2106(b)</p>	<p>Virtually Identical. Section 2106(b)</p>

Additional Implementation and Enforcement Requirements

Section 2108 of House Conference Version	Section 2108 of Senate Bill
<p>At the time the President submits to Congress the final text of the trade agreement, the President shall also submit a plan for implementing and enforcing the agreement. The plan shall include (along with an analysis of the costs associated with each): (1) a description of additional personnel required at border entry points; (2) a description of additional personnel required by Federal agencies for monitoring and implementing the trade agreement; and (3) a description of the additional equipment and facilities needed by the U.S. Customs Service; and a description of the impact of the agreement on State and local governments. Section 2108(a)</p> <p>In the first budget after the above plan is submitted, the President shall request the resources necessary to support the plan. Section 2108(b)</p>	Identical. Section 2108

Committee Staff

Section 2109 of House Conference Version	Section 2109 of Senate Bill
<p>The grant of trade promotion authority is likely to increase the activities of the primary committees of jurisdiction in international trade. Further, more Members will participate in the formulation of U.S. trade policy and oversight of the trade agenda through the creation of the Congressional Oversight Group. The primary committees of jurisdiction should have adequate staff to accommodate these increased activities.</p>	Identical

Conforming Amendments

Section 2110 of House Conference Version	Section 2110 of Senate Bill

Report on Impact of Trade Promotion Authority	
House Conference Version	Section 2111 of H.R. 3009 (Senate)
No provision	Requires the ITC, within 1 year of enactment, to report to the revenue committees on the economic impact on the United States of: (1) the U.S.-Israel Free Trade Agreement (FTA); (2) the U.S.-Canada FTA; (3) the North American Free Trade Agreement; (4) the Uruguay Round Agreements; and (5) the Tokyo Round of Multilateral Trade Negotiations.

Identification of Small Business Advocate at WTO	
House Conference Version	Section 2112 of H.R. 3009 (Senate)
No provision.	<p>Requires the USTR to pursue identification of a small business advocate at the WTO Secretariat to examine the impact of WTO agreements on small- and medium-sized enterprises, address their concerns, and recommend ways to address their interests. Section 2112(a)</p> <p>States that the Assistant USTR for Industry and Telecommunications shall be responsible for ensuring small business interests are considered in trade negotiations in accordance with the overall objective on small businesses (described in section 2102(a)(8)). Expresses the sense of Congress that the small business functions be reflected in the title of the Assistant USTR assigned such responsibility. Section 2112(b)</p> <p>Requires that within 1 year of enactment and annually thereafter, the USTR report to the revenue committees on steps taken to pursue the identification of a small business advocate at the WTO. Section 2112(c)</p>

Definitions	
Section 2111 of House Conference Version	Section 2113 of H.R. 3009 (Senate)
The two bills are identical except the Senate bill defines “import sensitive agricultural product” here [Section 2113(5)], whereas the House bill defines the term under the section on Trade Agreements Authority [Section 2103(a)(2)(B)]. The two definitions are similar but not identical. In addition House Conference version defines “WTO member” [Section 2111(9)], “Agreement on Subsidies and Countervailing Measures” [Section 2111 (10)(A)], and “Antidumping Agreement” [Section (10)(B)].	

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