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REPORT
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PROVIDING AUTHORITY FOR THE PRESIDENT TO ENTER INTO TRADE AGREEMENTS TO CONCLUDE THE URUGUAY ROUND OF MULTILATERAL TRADE NEGOTIATIONS UNDER THE AUSPICES OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE, TO EXTEND TARIFF PROCLAMATION AUTHORITY TO CARRY OUT SUCH AGREEMENTS, AND TO APPLY CONGRESSIONAL "FAST TRACK" PROCEDURES TO A BILL IMPLEMENTING SUCH AGREEMENTS

JUNE 23 (legislative day, JUNE 22), 1993.—Ordered to be printed

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Mr. MOYNIHAN, from the Committee on Finance, submitted the following

REPORT

[To accompany S. 1003]

The Committee on Finance, to which was referred the bill (S. 1003) providing authority for the President to enter into trade agreements to conclude the Uruguay Round of multilateral trade negotiations under the auspices of the General Agreement on Tariffs and Trade, to extend tariff proclamation authority to carry out such agreements, and to apply Congressional "fast track" procedures to a bill implementing such agreements, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

I. SUMMARY

The Committee bill renews negotiating and proclamation authority and provides for the application of fast track approval procedures for agreements concluding the Uruguay Round of multilateral trade negotiations. The authority provided under the Committee bill would require that the President enter into any Uruguay Round agreements before April 16, 1994. The bill would also require that, before entering into any agreements, the President must give the Congress 120 days' advance notice of his intent to enter into the agreements. Under the Committee bill, the last day for such advance notification would be December 15, 1993. The Committee bill would also permit the private sector advisory committees established by section 135 of the Trade Act of 1974 to sub-

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mit their reports to the Congress 30 days after the President notifies the Congress of his intent to enter into Uruguay Round agreements.

II. General Explanation

The Congress first adopted expedited legislative procedures for trade agreements (known as the "fast track") in the Trade Act of 1974 ("1974 Trade Act"). The fast track has been renewed twice. It was extended for eight years in the Trade Agreements Act of 1979 and, after a lapse of eight months, was reauthorized in the Omnibus Trade and Competitiveness Act of 1988 ("1988 Trade Act"). The 1988 Trade Act provided fast track procedures for trade agreements signed by June 1, 1993, subject to a Presidential request in 1991.

Under the 1988 Trade Act, the President was authorized to enter into trade agreements to reduce or eliminate tariff and non-tariff barriers and other trade-distoring measures. The 1988 Trade Act also granted the President the authority to proclaim, within prescribed limits, modifications to U.S. tariffs that are negotiated as part of a multilateral trade agreement. The President was required to notify the Congress at least 90 days in advance of his intent to enter into a trade agreement in order for the agreement to be considered using the fast track procedures provided by the 1988 Trade Act. The last date for such advance notification under the 1988 Trade Act was March 2, 1993, and the authority itself expired May 31, 1993. In addition, the private sector advisory committees established under section 135 of the 1974 Trade Act were required to submit reports to the Congress on any trade agreement at the same time as the President notified Congress of his intent to enter into such agreement.

On April 27, 1993, United States Trade Representative Michael Kantor transmitted to the Congress, on behalf of the President, a legislative proposal to extend the fast track approval procedures to trade agreements that conclude the Uruguay Round of multilateral trade negotiations, provided that the President notified the Congress by December 15, 1993 of his intent to enter into any such agreements before April 16, 1994.

Consistent with the President's request, the Committee bill renews negotiating and proclamation authority and provides for the application of fast track approval procedures for Uruguay Round agreements. The authority would apply to agreements entered into before April 16, 1994, and would require that the President give the Congress a minimum of 120 days' advance notification (or by December 15, 1993) of his intent to do so. Tariff reductions proclaimed under the authority may not take effect before the effective date of a bill implementing the non-tariff elements of any agreements. The bill would also require that the private sector advisory committees submit their reports to the Congress on the Uruguay Round agreements within 30 days of the President's notification to the Congress.

The Committee believes that this extension of the fast track, requiring notice of an agreement by December 15, 1993, should be sufficient to permit the participants to conclude a comprehensive agreement in light of progress made in the past seven years of ne-

gotiations. The notification period required to qualify for fast track procedures is extended from 90 days to 120 days to provide the Congress with a meaningful opportunity to review the agreement since the period of review is likely to include weeks when the Congress is not in session. Finally, the bill delays the requirement for the submission of the private sector advisory committee reports until 30 days after the notification date to allow more informed analyses of the outcome of the negotiations.

The Committee believes that the Senate should promptly approve S. 1003 to enable the President to make a final attempt to bring the Uruguay Round to a successful conclusion. The Committee continues to believe that a properly negotiated Uruguay Round agreement can improve access to foreign markets for exports of U.S. manufactured goods, agricultural products and services. Further, the Committee believes that the Round provides the United States with the best opportunity to seek improvements and clarifications to the rules governing world trade and to bring under General Agreement on tariffs and Trade (GATT) discipline, for the first time, trade in services and agriculture, intellectual property rights and trade-related investment measures.

As the negotiations move into their final phase, the Committee also believes that it is appropriate to review U.S. goals and objectives for the Uruguay Round. The Committee stands firmly by the negotiating objectives set forth in the 1988 Trade Act, and intends to measure the overall results of the Round against these objectives. At the same time, the Committee recognizes that the negotiations have evolved since they were first launched in 1986. Accordingly, the Committee has sent to the President the following letter stating its views on what U.S. objectives should be as the negotiations enter their final stage.

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, June 23, 1993.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: The Committee on Finance has closely monitored the progress of the Uruguay Round negotiations since they were launched at Punta del Este in September 1986. As you know, the Congress set forth the principal negotiating objectives for the Round in the Omnibus Trade and Competitiveness Act of 1988. These have been, and will continue to be, the overall benchmarks against which we will measure the outcome of these negotiations.

Since then, however, the negotiations have evolved and the issues have become more clearly defined. In particular, in December 1991, GATT Director General Arthur Dunkel tabled his "Draft Final Act," the document which has since become the basis for much of the negotiations.

It is therefore appropriate, as the Congress considers the President's request to renew negotiating authority and "fast track" procedures for the Uruguay Round, to consider once again our goals and objectives in light of the specific issues raised, or left unaddressed, in the Draft Final Act. We set forth below the views

of the Committee on Finance on the goals it believes the United States should pursue with respect to eighty key areas of the negotiations. It is the Committee's intention to review any final Uruguay Round agreement against these objectives, as well as the objectives set forth in the 1988 Trade Act.

First, as negotiations on market access move forward in anticipation of the July meeting of the leaders of the Group of Seven countries, the Committee reaffirms its longstanding belief that the Uruguay Round must result in more open, equitable, and reciprocal access for U.S. exporters of goods and services. With respect to manufactured products, the United States should seek an agreement that will substantially reduce tariff and non-tariff barriers to U.S. exports and eliminate tariffs where our private sector favors such an action and significant trading partners concur.

In the negotiations on services trade, the United States should seek substantial market access commitments that provide for national treatment, right of establishment, and equivalent competitive opportunities for our firms; countries that fail to make such commitments should be denied the benefits of the services agreement. In addition to a substantial reduction in existing trade barriers, the Round should also establish rules to prevent countries from erecting new ones.

Market access is also an important objective in the negotiations on agricultural trade, where we should seek to obtain meaningful commitments that will expand export opportunities for U.S. producers. In addition, we should aim for significant reductions in export subsidies and in farm support programs that distort world market prices by promoting overproduction and dumping of excess production on the world market. We should also ensure that unjustified sanitary and phytosanitary measures are disciplined, while preserving our right to maintain legitimate measures to protect health, safety, and the environment.

The government procurement negotiations also provide an opportunity for greater market access for U.S. firms. In addition to seeking to reduce barriers in foreign markets, the United States should work to expand the coverage of the Government Procurement Code and improve the fairness and transparency of administrative procedures.

The Committee continues to believe that the United States should seek a stronger GATT dispute settlement mechanism that will ensure, within set timeframes, the prompt and effective enforcement of our rights. At the same time, we must retain the ability to use our trade laws to remedy trade agreement violations and address the unfair trading practices of our competitors. In that connection, the Committee believes that dispute settlement panels hearing challenges to our antidumping or countervailing duty actions should be precluded from substituting their own judgment for the judgment of the U.S. International Trade Commission, the Department of Commerce, or U.S. courts.

The Committee strongly believes that our antidumping and countervailing duty laws must be preserved as effective tools for fighting unfair dumping and government subsidies. We are concerned, in particular, with the provisions of the Draft Final Act on standing, cumulation, cost and profit methodologies, de minimis excep-

tions, non-actionable subsidies, and the termination of antidumping and countervailing duty orders. We should seek stronger disciplines against export and domestic subsidies (including equity infusions, and natural resource and regional subsidies), as well as effective measures to prevent circumvention of antidumping and countervailing duty orders and diversionary dumping. At the same time, we should work toward greater transparency in the antidumping and countervailing duty actions taken by our trading partners, as well as a clarification of substantive rules and stronger procedural standards to prevent the misuse of these rules against U.S. exporters.

In the intellectual property negotiations, the Committee believes that our overreaching goal should be an agreement that provides adequate protection and effective enforcement of all forms of intellectual property rights. We believe, however, that the Draft Final Act is deficient in several respects. The transition periods, particularly as they apply to developing countries, should be shortened. The agreement should provide for pipeline patent protection for products subject to pre-market regulatory review. The rules regarding the use of compulsory licenses should be strengthened. And the agreement should fully recognize contractual arrangements and transfers, and provide for comprehensive national treatment for U.S. owners of intellectual property rights.

Finally, in the textile and apparel negotiations, we believe that the United States should ensure that all countries provide equitable access to their domestic markets and that measures are put in place to prevent such trade-distorting practices as transshipment, false declarations, smuggling, and other forms of trade rule circumvention. In addition, we believe strongly that any country that does not adhere to the overall Uruguay Round agreement should not benefit from the phase-out of the Multifiber Arrangement (MFA). We also urge you to take into consideration, in any negotiations on textile and apparel tariff reductions, the significant trade-liberalizing effect of the phase-out of the MFA, as well as the impact on employment.

We urge you to keep these objectives, along with those in the 1988 Trade Act, in mind as you work to conclude the Uruguay Round by the end of this year. We look forward to working with you as these negotiations move forward, and stand ready to provide whatever assistance or advice you may find useful.

Sincerely,

BOB PACKWOOD,
Ranking Member.
DANIEL PATRICK MOYNIHAN,
Chairman.

III. VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with section 133 of the Legislative Reorganization Act of 1946, the Committee states that S. 1003 was ordered favorably reported, without amendment, by a vote of 18 to 2.

IV. BUDGETARY IMPACT OF THE BILL

In compliance with sections 308 and 403 of the Congressional Budget Act of 1974, and paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the following letter has been received from the Congressional Budget Office regarding the budgetary impact of the bill:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 23, 1993.

Hon. DANIEL PATRICK MOYNIHAN,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1003, as ordered reported by the Senate Committee on Finance on June 23, 1993. CBO estimates that this bill would cause no change in federal government receipts.

Before their expiration on June 1, 1993, sections 1102 and 1103 of the Omnibus Trade and Competitiveness Act of 1988 granted the President the authority to enter into multilateral and bilateral trade agreements. The President could reduce certain tariffs by proclamation within specified bounds prescribed by the law, and for provisions subject to Congressional approval, Congress could not amend implementing legislation once it had been formally introduced. Furthermore, as long as the President met statutory requirements concerning Congressional consultation during the negotiation process, Congress was required to act on the legislation following a strict timetable. This consideration process was known as the "fast track" procedures. S. 1003 would extend these provisions for any trade agreement resulting from the Uruguay Round negotiations taking place under the General Agreement on Tariffs and Trade.

Because the fast track procedures have expired, Congress can amend any legislation implementing trade agreements entered into since the expiration and faces no time constraints on the consideration. Secondly, the President no longer has the authority to implement certain tariff reductions of trade agreements without Congressional approval. S. 1003 would make a special exception for the Uruguay Round negotiations taking place under the auspices of the General Agreement on Tariffs and Trade. The President could enter into an agreement before April 16, 1994 (as long as he notified Congress of his intention 120 days beforehand), utilize his proclamation authority for certain tariff reductions, and have the legislation considered by Congress under the fast track procedures.

Because any agreement resulting from the Uruguay Round negotiations would need legislation in addition to S. 1003 for implementation, the budgetary impact of the agreement would be scored with that other implementing legislation. Therefore, CBO scores no change in revenues resulting from enactment of S. 1003. If, however, CBO believed that the President would use the proclamation authority before the consideration of the legislation implementing other parts of the agreement, CBO would score the effect of the proclaimed tariff reductions with this bill.

Because S. 1003 would extend the President's authority to implement certain tariff changes, the bill would be subject to pay-as-you-go procedures under Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985. However, CBO would score the effect of any such changes with the legislation implementing other sections of the agreement. The pay-as-you-go effects of S. 1003 are shown in the table below.

PAY-AS-YOU-GO CONSIDERATIONS

[By fiscal year, in millions of dollars]

	1993	1994	995
Changes in outlays	(1)	(1)	(1)
Changes in receipts	0	0	0

[1] Not applicable.

If you wish further details, please feel free to contact me or your staff may wish to contact John Stell at 226–2720.

Sincerely,

ROBERT D. REISCHAUER,
Director.

V. REGULATORY IMPACT OF THE BILL

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee states that the bill will not significantly regulate any individuals or businesses, will not impact on the personal privacy of individuals, and will result in no significant additional paperwork.

VI. CHANGES IN EXISTING LAW

Pursuant to the requirements of paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, S. 1003, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988

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SEC. 1102. TRADE AGREEMENT NEGOTIATING AUTHORITY.

(a) AGREEMENTS REGARDING TARIFF BARRIERS.—

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(d) CONSULTATION WITH CONGRESS BEFORE AGREEMENTS ENTERED INTO.—

(1) Before the President enters into any trade agreement under subsection (b) or (c), 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; and

(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.

(2) The consultation under paragraph (1) shall include—

(A) the nature of the agreement;

(B) how to what extent the agreement will achieve the applicable purposes, policies, and objectives of this title; and

(C) all matters relating to the implementation of the agreement under section 1103.

(3) If it is proposed to implement two or more trade agreements in a single implementing bill under section 1103, the consultation under paragraph (1) shall include the desirability and feasibility of such proposed implementation.

(e) SPECIAL PROVISIONS REGARDING URUGUAY ROUND TRADE NEGOTIATIONS.—

(1) IN GENERAL.—Notwithstanding the time limitations in subsections (a) and (b), if the Uruguay Round of multilateral trade negotiations under the auspices of the General Agreement on Tariffs and Trade has not resulted in trade agreements by May 31, 1993, the President may, during the period after May 31, 1993, and before May 16, 1994, enter into, under subsections (a) and (b), trade agreements resulting from such negotiations.

(2) APPLICATION OF TARIFF PROCLAMATION AUTHORITY.—No proclamation under subsection (a) to carry out the provisions regarding tariff barriers of a trade agreement that is entered into pursuant to paragraph (1) may take effect before the effective date of a bill that implements the provisions regarding nontariff barriers of a trade agreement that is entered into under such paragraph.

(3) APPLICATION OF IMPLEMENTING AND "FAST TRACK" PROCEDURES.—Section 1103 applies to any trade agreement negotiated under subsection (b) pursuant to paragraph (1), except that—

(A) in applying subsection (a)(1)(A) of section 1103 to any such agreement, the phrase "at least 120 calendar days before the day on which he enters into the trade agreement (but not later than December 15, 1993)," shall be substituted for the phrase "at least 90 calendar days before the day on which he enters into the trade agreement"; and

(B) no provision of subsection (b) of section 1103 other than paragraph (1)(A) applies to any such agreement and in applying such paragraph, "April 16, 1994;" shall be substituted for "June 1, 1991;".

(4) ADVISORY COMMITTEE REPORTS.—The report required under section 135(e)(1) of the Trade Act of 1974 regarding any trade agreement provided for under paragraph (1) 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 1103(a)(1)(A) of his intention to enter into the agreement (but before January 1994).

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