Fast-Track Trade Negotiating Authority: A Comparison of 105th Congress Legislative Proposals

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ABSTRACT

This report provides a side-by-side comparison of H.R. 2621 and S. 2400, as reported, 105th Congress bills that would provide the President with trade negotiating authority and accord certain resulting agreements and implementing bills expedited — or "fast-track" — legislative consideration.

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Summary

This report provides a side-by-side comparison of H.R. 2621 and S. 2400, as reported, 105th Congress bills that would provide the President with trade negotiating authority and accord certain resulting agreements and implementing bills expedited — or "fast-track" — legislative consideration. In September 1997 the President requested that a new fast-track statute be enacted, given that authorities in the Omnibus Trade and Competitiveness Act of 1988 (OTCA) had expired. OTCA provisions were last used to approve and implement the GATT Uruguay Round agreements. H.R. 2621 was reported by the House Ways and Means Committee October 23, 1997 (H.Rept. 105-341, Part I). A planned House vote was postponed November 10, with no further floor action taken. The Senate Finance Committee reported a fast-track bill (S. 1269) October 8, 1997 (S.Rept. 105-102). It was debated in November and returned to the Senate calendar February 26, 1998. On July 31, the Committee reported S. 2400, the Trade and Tariff Act of 1998, an original bill containing fast-track provisions that are essentially the same as those found in S. 1269 (S.Rept. 105-280). Floor action has been anticipated in both Houses.

The House and Senate bills contain the same basic elements contained in the OTCA: a list of general and specific negotiating objectives; a temporary (but extendable) grant of authority to the President to enter into tariff and nontariff agreements and to implement tariff agreements by proclamation; a requirement that nontariff barrier agreements be approved and implemented by statute; a provision that any such statute will be accorded expedited legislative treatment provided the President abide by certain statutory notification and consultation requirements; procedural provisions for extending the general availability of fast-track procedures to a given date, as well as for prohibiting their use for specific trade agreements; incorporation of the fast-track procedures set forth in § 151 of the Trade Act of 1974; and a provision that the procedural provisions of the bill are an exercise of Congress' constitutional rulemaking authority and are subject to change by rule.

Differences from the OTCA include the addition of labor and environmental aims as either principal U.S. negotiating objectives or new "international economic policy objectives," limitations on what may be included in legislation for which fast-track procedures are available, and additional requirements placed on the President to notify and consult with Congress during the trade agreements process. Among the ways in which the bills differ are: a greater number of negotiating objectives in the Senate bill; additional attention to agriculture in the House bill; different emphases in each as to labor and environmental issues; committee pre-negotiation disapproval in the Senate bill; broader notification and consultation requirements in the Senate bill with respect to tariff agreements; and some differences in how provisions that may be contained in implementing legislation are characterized. Each bill would extend current trade adjustment assistance (TAA) programs for workers and firms and the NAFTA worker adjustment assistance program for two years (*i.e.*, until 2000), with the House bill mandating a GAO study on TAA programs.

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Introduction

This report provides a side-by-side comparison of H.R. 2621 and S. 2400, as reported, 105th Congress bills that would provide the President with trade negotiating authority and accord certain resulting agreements and implementing bills expedited — or "fast-track"— legislative consideration. The President requested in September 1997 that a new fast-track statute be enacted (and submitted his own bill on the matter), given the expiration of authorities in the Omnibus Trade and Competitiveness Act of 1988 (OTCA), P.L. 101-418, Title I. The OTCA provisions were last used to approve and implement the GATT Uruguay Round agreements in the Uruguay Agreements Act of 1994, P.L. 103-465.

The House Ways and Means Committee reported H.R. 2621, the Reciprocal Trade Agreements Authorities Act of 1997, with amendments, October 23, 1997 (H.Rept. 105-341, Part I). The bill was placed on the Union Calendar November 4, but a planned House vote was postponed November 10.[1] There has been no further floor action on the bill to date. A Senate fast-track bill, S. 1269, was reported by the Senate Finance Committee October 8, 1997 (S.Rept. 105-102). The bill was the subject of several days of floor debate in November 1997 and was returned to the Senate calendar February 26, 1998.[2] In June, the Speaker of the House stated that fast-track trade legislation would be on the House agenda later in the year.[3] On July 31, the Senate Finance Committee reported S. 2400, the Trade and Tariff Act of 1998, an original bill containing fast-track provisions essentially the same as those found in S. 1269 (S.Rept. 105-280). S. 2400's fast-track provisions are contained in Title II of the bill, which has the short title, "Reciprocal Trade Agreements Act of 1998." Floor action on fast-track legislation has been anticipated in both Houses.

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[1] "House puts off trade vote after Clinton seeks delay to corral votes," AP, November 10, 1997, available in LEXIS, NEWS Library, CURNWS File.

[2] 144 Cong. Rec. D130 (daily ed. February 26, 1998).

[3] "Gingrich Says Fast Track, Funding for IMF on Fall Agenda," National Journal's Congress Daily, June 25, 1998, available in LEXIS, NEWS Library, CURNWS File.

agreements and to implement tariff agreements by proclamation; a requirement that nontariff barrier agreements be approved and implemented by statute; a provision that any such statute will be accorded expedited legislative treatment provided the President abide by certain statutory notification and consultation requirements; procedural provisions for extending the general availability of fast-track procedures to a given date, as well as for prohibiting their use for specific trade agreements; incorporation by reference of the fast-track procedures contained in section 151 of the Trade Act of 1974; and a provision that the procedural provisions of the bill are an exercise of Congress' constitutional rulemaking authority and are subject to change by rule.

Within this basic structure, however, the bills differ from the OTCA in a variety of ways, many of these restricting the availability of fast-track procedures. Among these:

- they incorporate certain labor and environmental aims as principal negotiating objectives, as separate "international economic policy objectives" that complement the trade agreements process, or as both

- they limit the use of fast-track procedures to agreements meeting principal negotiating objectives and prevent the use of these procedures to modify U.S. law where international economic policy objective are implicated

- they further define (and limit) the elements of implementing legislation that may be considered under fast-track procedures, refining the Trade Act's language allowing provisions in an implementing bill that are "necessary or appropriate" to implement an agreement

- they require the President, between the time he notifies Congress of his intent to enter into an agreement and his submission of an implementing bill, to submit to Congress an assessment of which changes in U.S. law will be required as a result of the agreement

- they prescribe additional Executive Branch consultations during the pre-negotiating and negotiating phases of the trade agreements process.

The bills also differ from each other in a number of respects, including negotiating objectives, pre-negotiation committee disapproval, their formulation of provisions that may be included in implementing legislation, and other points. For example:

- though the bills share negotiating objectives in a number of areas (*e.g.*, trade barriers, trade in services, foreign investment, intellectual property, agriculture, and the use of foreign governmental regulations in certain trade-distorting ways), the Senate bill contains most of the principal negotiating objectives set forth in the OTCA (though updating some of them), while the House bill contains fewer (though also updated) objectives

- the House bill contains guidance for negotiators regarding domestic policy aims (*e.g.*, health and safety) applicable to all principal negotiating objectives,

while the Senate bill contains similar language applicable only to negotiations on services and investment and refers to these aims as being "legitimate" (the latter limited approach was taken by the OTCA)

- the House pays additional attention to agriculture in requiring special pre-negotiation consultations on the matter, placing concern over import-sensitive items within negotiating objectives, and creating a Special Agricultural Negotiator within the Office of the United States Trade Representative (USTR)

- while each bill would seek, as a principal negotiating objective, to prevent foreign governments from lowering regulatory standards to gain competitive advantage, the breadth of foreign measures to be addressed in negotiations differs: the House bill refers to the waiving of or derogation from existing environmental, health, safety, or labor measures, while the Senate bill refers to the use of foreign government regulations and other government measures generally for this end and includes within this broad category the specific actions and regulatory areas mentioned the House bill (each bill specifically refers to child labor, however)(note also that House bill titles this section "Labor, Environment and Other Matters," while the Senate bill labels its similar section, "Regulatory Competition")

- each of the sections containing these regulatory objectives contains different provisos, the House bill focusing on its meaning for foreign law, the Senate bill on its meaning for U.S. law

- the bills differ in emphasis as to their "international economic policy objectives," with the Senate bill treating them as supportive of the trade agreements process and the House bill providing that the President should ensure that U.S. trade agreements "complement and reinforce" these other policy goals

- with respect to U.S. worldwide advancement of labor standards as an "international economic policy objective," the Senate bill is more specific than the House bill as to the U.S. mandate in the International Labor Organization (ILO), a forum in which this global action may take place: the Senate bill provides that the U.S. objective is to seek the establishment of an ILO mechanism for the systematic examination and reporting on the promotion and enforcement by ILO members with respect to specifically named worker rights, while the House bill provides for working within the ILO to encourage the observance and enforcement of core labor standards (each specifically refers, however to a prohibition on exploitative child labor)

- only the Senate bill provides for two-committee disapproval of the use of fast-track procedures for a specific nontariff barrier agreement, a procedure that was available in the OTCA for free trade area negotiations authorized in the Act

- the Senate bill contains additional provisions for notification of and consultation with Congress with respect to tariff agreements

- while each bill requires that trade agreements addressing both tariff and nontariff barriers must reduce, eliminate, or prohibit duties, trade barriers, or other distortions, the bills differ in the negotiating objectives that must be met in any such agreements: the House bill provides that the agreements may make progress toward any of the negotiating objectives set forth in the bill, while the Senate bill limits these agreements to those making progress toward meeting principal negotiating objectives.[4]

- the bills differ somewhat in characterizing what may be included in an implementing bill subject to fast-track procedures: the Senate bill requires that the bill must approve a trade agreement that achieves one of the principal negotiating objectives of the bill, while the House bill requires that the agreement simply be one that is entered into under its authority for such agreements; while each refers to implementing provisions as being "necessary," the House bill relates this requirement to provision that are "directly related" to principal trade negotiating objectives; while the House bill allows provisions that define and clarify, or provisions that are related to, the operation or effect of the provisions of the trade agreement, the Senate bill allows provisions that are "otherwise related to the enforcement, and adjustment to the effects of such agreement and are directly related to trade"; the House bill additionally allows provisions for adjustment assistance to workers and firms adversely affected by trade in general (each allows for provisions necessitated by budget law).

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[4]It is unclear from the House bill whether agreements authorized under § 103 that met "international economic policy objectives" set forth in § 102(c) could be *approved* under fast-track procedures where no change in statute was necessary. Section 102(c) does not authorize the use of fast-track procedures "to modify United States law." Were mere approval of an agreement to be considered such a modification, the use of fast track procedures to approve such an agreement would seemingly be precluded. The House bill also provides that provisions of law necessary for the operation or implementation of U.S. rights or obligations under § 103(b) agreements generally may only be included in an implementing bill subject to fast-track procedures if these provisions are directly related to the bill's principal trade negotiating objectives (*see* § 103(b)(3)(B)).

In the past, Congress made all changes to domestic law that it viewed were needed to implement the agreements within the implementing legislation and included in it a provision that denies domestic effect to provisions of agreements approved in the legislation that conflict with federal law. *See, e.g.*, Uruguay Round Agreements Act (URAA), P.L. 103-465, § 102(a). As explained in the House Ways and Means Committee report on the URAA: "This treatment is ... consistent with the Congressional view that necessary changes in Federal statutes should be specifically enacted, not preempted by international agreements. Since the Uruguay Round agreements as approved by the Congress, or any subsequent amendment to those agreements, are not self-executing, any dispute settlement findings that a U.S. statute is inconsistent, with an agreement also cannot be implemented except by legislation approved by the Congress unless consistent implementation is permissible under the terms of the statute." H.Rept. 103-826, Pt. 1, at 25. Note also that S. 2400 requires the President, before an agreement is entered into, to notify Congress as to whether the agreement includes subject matter for which supplemental implementing legislation may be required which is not subject to fast-track procedures (*see* § 2004(b)(2)(C)).

S. 2400 essentially restates the fast-track provisions of S. 1269, with the following modifications: (1) it revises a provision regarding workers' rights by naming a specific Declaration of the International Labor Organization (ILO) that should be effectively implemented within the ILO (§ 2002(c)(1)(C)(ii)); (2) it requires that the International Trade Commission submit an assessment of the economic impact of any resulting trade agreements no later than 90 days after they have been entered into (§ 2004(e)); and (3) it adds agreements resulting from negotiations to achieve a free trade area of the Americas to the list of trade agreements exempted from the pre-negotiation notice and consultation requirements of the bill (§ 2006(a)(4)).

As this report is based on the text of the reported bills, it should be added that legislative history may provide further interpretation and clarification of the bills' provisions. The side-by-side comparison of the H.R. 2621 and Title II of S. 2400 begins on the following page.

Side-by-Side Comparison of H.R. 2621 and S. 2400 (Title II)

	H.R. 2621, as reported (H.R. Rept. 105-341, Part I)	**S. 2400, Title II, as reported (S.Rept. 105-280)**
Short title	Reciprocal Trade Agreements Authorities Act of 1997 **[§ 101]**	Reciprocal Trade Agreements Act of 1998 **[§ 2001]**
Trade negotiating objectives (general)	States four "overall negotiating objectives" for agreements subject to § 103 of the bill: • to obtain more open, equitable, and reciprocal market access • to obtain the reduction or elimination of barriers and distortions that are directly related to trade and that decrease market opportunities for U.S. exports or otherwise distort U.S. trade • to further strengthen the system of international trading disciplines and procedures, including dispute settlement • to foster economic growth, raise living standards, and promote full employment in the U.S. and to enhance the global economy **[§ 102(a)]**	Provides that the purposes of the Act are to achieve, through trade agreements affording mutual benefits, the following: • more open, equitable, and reciprocal market access for U.S. goods, services, and investment • the reduction or elimination of barriers and other trade-distorting policies and practices • a more effective system of international trading disciplines and procedures • economic growth, higher living standards, and full employment in the U.S., and economic growth and development among U.S. trading partners **[§ 2002(a)]**

Trade negotiating objectives (principal)	Lists 8 principal trade negotiating objectives: • trade barriers and distortions • trade in services • foreign investment • intellectual property • transparency • reciprocal trade in agriculture • labor, the environment, and other matters • WTO extended negotiations **[§ 102(b)]**	Lists 15 principal negotiating objectives for agreements subject to provisions of sec. 3 of bill: • reduction of barriers to trade in goods • trade in services • foreign investment • intellectual property • agriculture • unfair trade practices • safeguards • improvement of the WTO and multilateral trade negotiation agreements • dispute settlement • transparency • developing countries • current account surpluses • access to high technology • border taxes • regulatory competition **[§ 2002(b)]**
— Trade barriers	Objectives are: • to expand competitive market opportunities for U.S. exports and to obtain fairer and more open conditions of trade by reduction or eliminating tariff and nontariff barriers and policies and practices of foreign governments directly related to trade that decrease market opportunities for U.S. exports or otherwise distort U.S. trade • to obtain reciprocal tariff and nontariff barrier elimination agreements, with particular attention to those tariff categories covered in § 11(b) of the Uruguay Round Agreements Act (URAA) • (*i.e.*, products covered in certain extended Uruguay Round negotiations) **[§ 102(b)(1)]**	Objective is to obtain competitive opportunities for U.S. exports in foreign markets substantially equivalent to the opportunities afforded foreign exports to U.S. markets, including the reduction or elimination of tariff and nontariff trade barriers, including — • tariff and nontariff disparities remaining from previous rounds of multilateral tariff negotiations that have put U.S. exports at a competitive disadvantage in world markets • measures identified in USTR's annual "National Trade Estimate" • tariff elimination for those products identified in § 111(b) of URAA and accompanying Statement of Administrative Action **[§ 2002(b)(1)]**

— Trade in services	Objective is to reduce or eliminate barriers to international trade in services, including regulatory and other barriers that deny national treatment or unreasonably restrict the establishment or operations of service suppliers **[§ 102(b)(2)]**	Objectives are: • to reduce or eliminate barriers to, or other distortions of, international trade in services, including regulatory and other barriers that deny or unreasonably restrict the establishment and operation of service suppliers in foreign markets • to develop internationally agreed rules, including dispute settlement procedures, which are consistent with U.S. commercial policies and will reduce or eliminate such barriers, or other distortions, and help ensure fair, equitable opportunities for foreign markets **[§ 2002(b)(2)(A)]**
	Compare guidance for negotiators in all principal negotiating areas set forth in **§ 102(d)(1)(**below)	U.S. negotiators to take into account legitimate U.S. domestic objectives, including protection of legitimate health, safety, essential security, environmental, consumer, and employment opportunity interests **[§ 2002(b)(2)(B)]** Above guidance "shall not be construed to authorize any modification of United States law" **[§ 2002(b)(2)(B)]**

- Foreign investment	Objective is to reduce or eliminate artificial or trade-distorting barriers to trade related foreign investment by: • reducing or eliminating exceptions to the national treatment principle • freeing the transfer of funds relating to investment • reducing or eliminating performance requirements and other unreasonable barriers to the establishment and operation of investments • seeking to establish standards for expropriation and compensation for expropriation, consistent with U.S. legal principals and practices • providing meaningful procedures for resolving investment disputes **[§ 102(b)(3)]** Compare guidance for negotiators in all principal negotiating areas set forth in **§ 102(d)(1)(**below).	Objectives are: • to reduce or eliminate artificial or trade-distorting barriers to foreign investment • to expand the principle of national treatment • to reduce unreasonable barriers to establishment • to develop internationally agreed rules through the negotiation of investment agreements, including dispute settlement procedures, which will help ensure a free flow of investment, and will reduce or eliminate the trade distortive effects of certain trade-related investment measures **[§ 2002(b)(3)(A)]** Same negotiating guidance and statutory construction as for negotiations on trade in services **[§ 2002(b)(3)(B)]**

— Intellectual property	Objectives for "trade-related" intellectual property are: (1) to further promote adequate and effective protection of intellectual property rights (IPR), including through: • [no provision regarding changes in foreign law] • ensuring accelerated and full implementation of TRIPS Agreement (particularly regarding U.S. industries whose products are subject to lengthiest developing country transition periods) and ensuring that any new multilateral or bilateral agreements embody IP protections as strong as those in NAFTA • providing strong protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property • preventing or eliminating discrimination with respect to matters affecting the availability, acquisition, scope, maintenance, use and enforcement of IPR • providing strong enforcement of IPR, (2) to secure fair, equitable and non-discriminatory market access opportunities for U.S. persons that rely upon IPR ("U.S. person" defined in § 109 of bill) **[§ 102(b)(4)]** No provision in House bill regarding recognition of other international initiatives. **[Sec. 102(B)(4)]**[Sec. 102(b)(4)(C) No provision in House bill regarding recognition of other international initiatives	Objectives regarding intellectual property are: (1) to further promote adequate and effective protection of IPR, by: • seeking enactment and effective enforcement of foreign intellectual property laws • accelerating and ensuring full implementation of TRIPS Agreement and achieving improvements in its standards • new technologies: same as House bill • discrimination: same as House bill • enforcement of IPR: same as House bill (2) to secure fair, equitable and non-discriminatory market access opportunities for U.S. persons that rely upon IPR (no definition of "U.S. person" in bill) (3) to recognize that inclusion in WTO of IPR disciplines and dispute settlement is without prejudice to other complementary international initiatives **[§ 2002(b)(4)]**

—Transparency	Objective is to obtain broader application of principle of transparency through: • increased and more timely public access to information regarding trade issues and activities of international trade institutions • increased openness of dispute settlement proceedings, including under the WTO **[§ 102(b)(5)]** No provision in House bill regarding transparency of costs and benefits of trade policy actions.	Objective is to obtain broader application of principle of transparency through: • increased public access to information regarding trade issues • clarification of costs and benefits of trade policy actions • observance of open and equitable procedures of U.S. trading partners and within the WTO **[§ 2002(b)(10)]**

— Agriculture	Objective is to obtain competitive opportunities for U.S. exports in foreign markets substantially equivalent to those afforded by the U.S. and to achieve fairer and more open condition of trade in bulk and value-added commodities by: • reducing or eliminating tariffs and charges that decrease U.S. market opportunities (focus on high tariffs or subsidy regimes of major producing countries; provide reasonable adjustment periods for import-sensitive products; consult with Congress before negotiating on import-sensitive items) • reducing or eliminating subsidies that decrease U.S. market opportunities or unfairly distort markets • improving disciplines and dispute settlement mechanisms to eliminate practices that unfairly decrease U.S. market access opportunities or distort markets, particularly with respect to import-sensitive products (specified practices listed below) • improving import relief mechanisms to recognize the unique characteristics of perishable agriculture • taking into account whether a negotiating country has adhered to existing trade obligations owed the U.S. • taking into account whether a product is subject to distortions because of failure of a major producing country to adhere to existing trade obligations owed the U.S. •	Objectives, along with those in § 1123(b) of Food Security Act of 1985 (7 USC § 1736r(b)), are to achieve, on expedited basis as feasible, more open and fair conditions of trade in agricultural commodities by: • improving disciplines for agricultural trade, including disciplines on restrictive or trade-distorting import and export practices such as those that would impact perishable or cyclical products • increasing U.S. agricultural exports by eliminating trade barriers and reducing or eliminating the subsidization of agricultural production consistent with U.S. policy of agricultural stabilization in cyclical and unpredictable markets • creating a free and more open agricultural trading system by resolving questions pertaining to export and other trade-distorting subsidies, market pricing, and market access • eliminating and reducing substantially other specific constraints to fair trade and more open market access, such as tariff, quotas and other tariff practices • improving disciplines that address practices that unfairly decrease US. market access opportunities or distort markets (specific practices listed below) **[§ 2002(b)(5)]**

— Agriculture (cont.)	• otherwise ensuring that WTO countries have made meaningful market liberalization commitments in agriculture **[§ 102(b)(6)]**	
— Agriculture: foreign trade distorting practices to be addressed in negotiations	Bill lists the following practices as those for which improved disciplines and dispute settlement are needed:	Bill lists the following as practices for which improved disciplines are needed:
	• unfair or trade-distorting activities of state trading enterprises and other administrative mechanisms, with emphasis on requiring price transparency in the operation of state trading enterprises and such other mechanisms	• unfair or trade-distorting activities of state trading enterprises and other administrative mechanisms including promoting price transparency
	• unjustified trade restriction or commercial requirements affecting new technologies, including biotechnology	• new technologies: same as House bill
	• unjustified sanitary or phytosanitary (S&P) restrictions, including those not based on scientific principles in contravention of Uruguay Round agreements	• unjustified S&P restrictions (no reference to Uruguay Round as in House bill)
	• other unjustified technical barriers to trade (TBTs)	• TBTs: same as House bill
	• restrictive rules in the administration of tariff-rate quotas **[§ 102(b)(6)(C)(i)-(v)]**	• tariff-rate quotas: same as House bill **[§ 2002(b)(5)(F)(i)-(v)]**

— Labor, environment, competition	Titled "Labor, the Environment, and Other Matters" Negotiating objective is to address following aspects of foreign government policies and practices regarding the above-named topics "that are directly related to trade": • to ensure that foreign labor, environmental, health or safety policies and practices do not arbitrarily or unjustifiably discriminate or serve as disguised barriers to trade • to ensure that foreign governments do not derogate from or waive existing domestic environmental, health, safety or labor measures, including measures that deter exploitative child labor, as an encouragement to gain competitive advantage in international trade or investment • Proviso for subparagraph addressing derogation from existing foreign measures: "Nothing in this subparagraph is intended to address changes to a country's laws that are consistent with sound macroeconomic development" **[§ 102(b)(7)]**	Titled "Regulatory Competition" Negotiating objectives regarding the use of government regulation or other practices by foreign governments to obtain a competitive advantage to their domestic producers, service providers, or investors, and thereby reduce market access of U.S. goods, services, and investment, are: • to ensure that government regulation and other government practices do not unfairly discriminate against U.S. goods, services, or investment • to prevent the use of foreign government regulation and other government practices, including the lowering of, or derogation from, existing labor (including child labor), health and safety, or environmental standards, for the purpose of attracting investment or inhibiting U.S. exports • Proviso for subsection addressing prevention of regulatory incentives: "Nothing in subparagraph (b) shall be construed to authorize inclusion in an implementing bill, or in an agreement subject to an implementing bill, provisions that would restrict the autonomy of the United States in these areas" **[§ 2002(b)(15)]**
— WTO extended negotiations	WTO negotiations in financial services, civil aircraft and rules of origin to be guided by those listed in URAA for these areas **[§ 102(b)(8)]**	No provision

International economic policy objectives (IEPOS): environment, labor, intellectual property, currency markets	President should take into account the relationship between trade agreements and other important priorities of the U.S. and seek to ensure that U.S. trade agreements complement and reinforce other policy goals; states four U.S. priorities: • seeking to ensure that trade and environmental policies are mutually supportive **[§ 102(c)(1)(A)]** • seeking to preserve the environment and enhance the international means for doing so, while optimizing the use of the world's resources **[§ 102(c)(1)(B)]** • promoting respect for worker rights and the rights of children and an understanding of the relationship between trade and worker rights; particularly by working with the International Labor Organization (ILO) to encourage the observance of core labor standards, including the prohibition on exploitative child labor **[§ 102(c)(1)(C)]** • supplementing and strengthening standards for protection of intellectual property (IPR) under conventions administered by international organizations other than the WTO, expanding these conventions to cover new and emerging technologies, and eliminating discrimination and unreasonable exceptions or preconditions to such protection **[§ 102(c)(1)(D)]** House bill does not include provision on international currency markets contained in Senate bill. Section 102(c) may not be construed to authorize the use of sec. 103 trade authorities procedures (*i.e.*, fast track legislative procedures) to modify U.S. law **[Sec. 102 (c)(2)]**	Provides that it is U.S. policy to reinforce the trade agreements process by four means: • expanding the production of goods and trade in goods in services to ensure the optimal use of the world's resources, while seeking to protect and preserve the environment and to enhance the international means for doing so **[§ 2002(c)(1)(D)]** • promoting respect for workers' rights by: (i) reviewing the relationship between workers' rights and the operation of international trading systems and specific trade arrangements; and (ii) seeking effective implementation in the ILO of the Declaration on Fundamental Principles and Rights at Work and its monitoring mechanism to ensure the systematic examination of and reporting on the extent to which ILO members promote and enforce the freedom of association, the right to organize and bargain collectively, and prohibitions on the use of forced labor, exploitative child labor, and discrimination in employment **[§ 2002(c)(1)(C)]** • expanding IPR protection (same language as House bill) **[§ 2002(c)(1)(B)]** • fostering stability in currency markets by developing mechanisms to assure greater coordination and cooperation between trade and monetary systems and institutions so as to protect against trade consequences of dramatic and unanticipated currency movements **[§ 2002(c)(1)(A)]**

Restriction on use of fast track procedures to implement agreements involving IEPOS	Nothing in subsection addressing international economic policy objectives may be construed to authorize the use of fast track legislative procedures to modify U.S. law **[§ 102(c)(2)**]	Same as House bill **[§ 2002(c)(2)]**
Guidance for negotiators: preserving domestic objectives	In pursuing principal negotiating objectives, U.S. negotiators shall take into account U.S. domestic objectives, including the protection of health and safety, essential security, environmental, consumer, and employment opportunity interests, and their related law and regulations **[§ 102(d)(1)]**	Similar provision attached to principal negotiating objectives in services and investment only (see above)
Guidance for negotiators: consultations with Congress/preserve rigorous enforcement of trade laws/avoid weakening of trade disciplines	Requires USTR, during course of negotiations: • to consult closely and regularly with congressional trade advisers on trade policy • to preserve ability of U.S. to enforce rigorously its trade laws (including antidumping and countervailing duty laws) and avoid agreements which lessen effectiveness of international and domestic disciplines on unfair trade, especially dumping and subsidies, in order to ensure that U.S. workers, agricultural producers, and firms can compete fully on fair terms and enjoy benefits of reciprocal trade concessions **[§ 102(d)(2)]**	Similar provision regarding congressional trade advisors in **§ 2004(d),** but excludes language on preservation of trade laws, etc., and additionally specifies that consultation must take place immediately prior to initialing an agreement
Uruguay Round performance	In determining whether to enter into negotiations with a particular country, President must take into account extent to which it has adhered to, or accelerated its implementation of, Uruguay Round obligations **[§ 102(e)]**	No provision

Trade agreement authority: tariff barrier agreements	Whenever the President determines that one or more existing foreign or U.S. duties or other import restrictions are unduly burdening or restricting U.S. foreign trade and that the purposes, policies, and objectives of the Act will be promoted thereby, the President may enter into trade agreements with foreign countries before October 1, 2001 (extendable to October 1, 2005) **[§ 103(a)(1)(A)]** President must notify Congress of intent to enter into a tariff agreement **[§ 103(a)(1)]** Grants the President authority to proclaim tariffs he determines are "required or appropriate" to carry out the agreement, within a statutorily-defined range and subject to certain other restrictions **[§ 103(a)(1)(B), (2)-(4)]** . Duty reductions or increases that do not fall within the President's proclamation authority may only take effect if they are enacted in an implementing bill **[§ 103(a)(5)]**	Same as House bill, except for notification requirement **[§ 2003(a)]** Senate bill contains notification and consultation provisions for tariff agreements in **§ 2004(a)-(b)**(below), both prior to negotiations and prior to entry into agreement

— Other tariff proclamation authority	Grants the President additional tariff proclamation authority if the U.S. agrees to duty modifications or staged rate reductions in a negotiation for the reciprocal elimination or harmonization of duties under WTO auspices or as part of an interim agreement leading to the formation of a regional free-trade area; authority subject to statutory consultation and layover requirements **[§ 103(a)(6)]** Note: This authority is similar to the additional proclamation authority granted the President in § 111(b) of the Uruguay Round Agreements Act (URAA), but extends it to interim agreements leading to the formation of a regional free-trade area. Both the House and Senate bills provide that the tariff agreement and proclamation authority contained in each does not affect the operation of § 111(b) of the URAA (*See* H.R. 2621, § 103(a)(7); S. 2400, § 2003(a)(7)).	Grants the President additional proclamation authority, with the following differences: • regarding WTO negotiations, modification or staged rate reduction must be agreed to in negotiations for the elimination or harmonization of duties on a reciprocal basis within the same tariff categories • authority limited to dates for which trade agreement authorities are provided in the bill (*i.e.*, before October 1, 2001, or, if extended, before October 1, 2005) • President must notify and consult with Congress under § 2004(a) • modifications or reductions may be proclaimed only with respect to articles included in President's notification **[§ 2003(a)(6)]** *See* note in adjoining column regarding similar authority in Uruguay Round Agreements Act.

Trade agreement authority: tariff and non-tariff barrier agreements	Whenever the President determines that — (1) one or more existing foreign or U.S. duties or any other import restriction, or any other barrier to, or other distortion of international trade, unduly burdens or restricts U.S. foreign trade or adversely affects the U.S. economy, or (2) the imposition of any such barrier or distortion is likely to have such an outcome, and that the purposes, policies, and objectives of the Act will be promoted, the President may enter into trade agreements, as described in the bill, before October 1, 2001 (extendable to October 1, 2005) **[§ 103(b)(1)(A),(C)]**	Generally same as House bill **[§ 2003(b)(1)(A)]**
— Description of trade agreements that may be entered into under this authority	Agreements entered into under the section must provide for (1) the reduction or elimination of such a duty, restriction, barrier, or other distortion, or (2) the prohibition of, or limitation of, such a barrier or other distortion) **[§ 103(b)(1)(B)]** Note: Agreements covered by or governed by this section will subsequently be referred to in this table as "§ 103(b) agreements."	Same as House bill **[§ 2003(b)(1)(B)]** Note: Agreements covered by or governed by this section will subsequently be referred to in this table as "§ 2003(b) agreements."
— Conditions	Section 103(b) agreements may be entered into under this section only if: • they make progress in meeting the negotiating objectives set forth in § 102 • the President notifies and consults with Congress as required under § 104 of the Act **[§ 103(b)(2)]**	Section 2003(b) agreements may be entered into only if: • they make progress in meeting the negotiating objectives set forth in § 2(b)(*i.e.* "principal negotiating objectives" only) • the President notifies and consults with Congress as required under § 2004 of the Act **[§ 2003(b)(2)]**

Bills qualifying for fast track consideration	Fast track procedures in § 151 of the Trade Act of 1974 apply to implementing bills that consist *only* of: • a provision approving a § 103(b) agreement and approving the statement of administrative action (if any) proposed to implement the agreement • provisions directly related to principal negotiating objectives achieved in the agreement (*see* § 102(b)), if the provisions are "necessary" for the operation or implementation of U.S. rights or obligations under the trade agreement • provisions that "define and clarify, or provisions that are related to," the operation or effect of the agreement's provisions (*e.g.*, provide that U.S. domestic law prevails over a conflicting agreement provision) • provisions to provide adjustment assistance to workers and firms adversely affected by trade • provisions necessary for compliance with § 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 in implementing the agreement **[§ 103(b)(3)]** Note: Procedures in § 151 of Trade Act of 1974 — *i.e.*, fast-track legislative procedures — are referred to in the House bill as "trade authorities procedures." These will subsequently be referred to in this table as either "trade authorities procedures" or "fast-track procedures."	Fast track procedures in § 151 of the Trade Act of 1974 apply to implementing bills that consist *only* of: • provisions that approve a § 2003(b) agreement meeting one or more of the § 2002(b) principal negotiating objectives and approving the statement of administrative action (if any) proposed to implement the agreement • provisions that (1) are "necessary" to implement the agreement or (2) are "otherwise related to the implementation, enforcement, and adjustment to the effects of such agreement and are directly related to trade" • provisions necessary for compliance with § 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 in implementing the agreement **[§ 2003(b)(3)]** Note: Procedures in § 151 of Trade Act of 1974 — *i.e.*, fast-track legislative procedures — are referred to in the Senate bill as "trade agreement approval procedures." These will subsequently be referred to in this table as either "trade agreement approval procedures" or "fast-track procedures."

Extending trade agreement authorities: congressional disapproval procedures	Trade authorities procedures apply to implementing bills submitted with § 103(b) agreements after September 30, 2001 and before October 1, 2005, if, "and only if," the President requests an extension and neither House of Congress adopts an extension disapproval resolution before October 1, 2001 **[§ 103(c)]** Presidential request must include report to Congress by July 1, 2001; President must also inform ACTPN, which must also report to Congress; reports may be classified **[§ 103(c)(2)-(4)]**	Same as House bill, but specifies that portion of President's report to Congress dealing with negotiating progress is to focus on progress made in negotiations toward achieving items set forth in Act's statement of purposes and principal negotiating objectives only (House bill specifies progress made toward purposes, policies and objectives of the Act in general, thus including international economic policy objectives) **[§ 2003(c)]**
Notice and consultation before negotiation	For § 103(b) agreements, President must (1) give Congress written notice at least 90 calendar days before initiating negotiations and (2) before and after submitting notice, consult regarding negotiations with the Senate Finance Committee, the House Ways and Means Committee and such other congressional as the President deems appropriate **[§ 104(a)(1)]**	Same as House bill, but requirements apply both to § 2003(a) tariff agreements as well as to § 2003(b) agreements **[§ 2004(a)]**
— Pre-negotiation consultations for agreements involving trade barriers and distortions and labor, environment and other matters.	Separate requirement to consult with House Ways and Means Committee and Senate Finance Committee and with statutory advisory groups before initiating negotiations on matters directly related to § 102(b) negotiating objectives involving "trade barriers and other distortions" and "labor, environment, and other matters" regarding the manner in which the negotiations will address the reduction or elimination of specific barriers or foreign government policies or practices **[§ 104(a)(2)]**	No provision

— Pre-negotiation consultation requirement for agreements on agriculture	Before initiating negotiations with a country on matters directly related to "reciprocal trade in agriculture," President must assess whether U.S. tariffs bound in Uruguay Round are lower than those bound by that country; must also consider worldwide bound tariffs applied to U.S. products are higher than U.S. tariffs and whether negotiations may address such disparity **[§ 104(a)(3)]** President must consult with House Ways and Means and Agriculture Committees, and Senate Finance and Agriculture Committees concerning results of assessment, whether it is appropriate for U.S. to agree to further tariff reductions, and how all negotiating objectives will be met **[§ 104(a)(3)]**	No provision
Consultation with Congress before agreements entered into	Before entering into any § 103(b) agreement, the President must consult with House Ways and Means and Senate Finance Committees and each other House and Senate committee having jurisdiction over legislation involving matters affected by the agreement **[§ 104(b)(1)]** Scope of consultations includes: • nature of agreement • how it meets statutory purposes, policies and objectives • implementation of agreement under § 105, including general effect of the agreement on existing laws **[§ 104(b)(2)]** Advisory committee reports must be provided to the President, Congress, and the USTR by 30 days after the President notifies the Congress of negotiation or intent to enter into an agreement **[§ 104(c)]**	Generally same as House bill, but applies both to § 2003(a) tariff agreements and § 2003(b) agreements; also some differences and additions as to consultations: (1) instead of the general effect of agreements on existing laws, consultations on implementation must specifically address whether the agreement contains any subject matter for which supplemental implementing legislation may be required which is not subject to fast-track procedures, and (2) consultations must also include"any other agreement" the President has entered into or intends to enter into with the country or countries involved **[§ 2004(b)-(c)]** Same as House bill **[§ 2004(c)]**

Consultation before agreements initialed	No provision	Requires the USTR to consult closely and on timely basis during negotiations (including before agreement is initialed) with congressional trade advisers appointed under 19 U.S.C. § 2211, and with Senate Finance and House Ways and Means Committees **[§ 2004(d)]**
International Trade Commission (ITC) assessment of agreements	No provision	Requires the President, at least 90 days before entering into a § 2003(b) agreement, to provide the ITC with details of the agreement and to request it to provide an assessment of its likely economic impact on the U.S. economy as a whole and on specific industry sectors; the ITC report is to be submitted to the President and Congress no later than 90 days after President enters into the agreement; in preparing the report, the ITC must review and assess available empirical literature on the agreement **[§ 2004(e)]**

Implementation of trade agreements	Agreements entered into under § 103(b) shall enter into force for the U.S. "if (and only if)": • the President, at least 90 calendar days before the date of entry into the agreement, notifies the House and Senate of his intention to enter into the agreement, and promptly publishes notice in the Federal Register • within 60 calendar days after entry, the President submits to the Congress a description of changes to existing laws that the President considers would be required in order to bring the U.S. into compliance with the agreement • after entering into the agreement, the President submits a copy of the official legal text of the agreement, a draft of an implementing bill, a statement of any administrative action (SAA) proposed to implement the trade agreement, and statutorily required supporting information • the implementing bill is enacted into law **[§ 104(a)]** Note: Like the OTCA, the bill does not impose a time limit on when an implementing bill must be submitted; however, the bill would newly require the President to submit a description of probable changes in law between the time he notifies Congress of his intent to enter into the agreement and the time he submits the bill.	Same as House bill **[§ 2005(a)(1)]**

Reciprocal benefits	To avoid free-rider problems, the bill must provide that agreement benefits and obligations apply only to parties, it such treatment is consistent with the agreement; may also provide that agreement does not apply uniformly to all parties, if consistent with the agreement **[§ 105(a)(3)]**	Provides that such reciprocity provisions be recommended to Congress by the President **[§ 2005(a)(3)]**
Limitations on fast-track procedures: pre-negotiation committee disapproval	No provision	Fast-track procedures do not apply to any implementing bill approving an agreement entered into under § 2003(b) if the Senate Finance Committee and the House Ways and Means Committee disapprove of the negotiations before the close of the 90-calendar day period beginning on the date notice is provided under § 2004(a)(1) with respect to its negotiation **[§ 2005(b)(1)]**
Limitations on fast-track procedures (lack of notice or consultation)	Fast-track procedures will not apply to an implementing bill with respect to a trade agreement entered into under sec. 3(b) if, during the 60-day period beginning on the date that one House agrees to a procedural disapproval resolution for lack of notice or consultations, the other House separately agrees to the same **[§ 105(b)]**	Same as House, but specifies that each House separately agree to the resolution within a 60-day period **[§ 2005(b)(2)]**
Exercise of congressional rulemaking	Extension disapproval procedures and procedural disapproval resolution provisions are enacted as enacted as exercise of House and Senate rulemaking power and "with full recognition of the constitutional right of either House to change the rules ... at any time, in the same manner, and to the same extent as any other rule of that House" **[§ 105(c)]**	Same as House bill, but includes procedure for committee disapproval **[§ 2005(c)]**

Possible inapplicability of fast-track conditions to certain agreements	Notwithstanding conditions for § 03(b) agreements, the applicability of fast-track procedures to such agreements resulting from negotiations begun before enactment of the bill is to be determined without regard to pre-negotiation notification requirements in § 104(a); a procedural disapproval resolution on the basis of President's failure or refusal to comply with these requirements will not be in order; President must consult with Congress as soon as feasible after enactment **[§ 106(b)]** Provision applies to any of the following: • a WTO information technology agreement entered into under WTO auspices • a WTO financial services agreement entered into under extended WTO negotiations in this area • a rules of origin agreement entered into under the WTO work program in the area • an agreement entered into with Chile **[§ 106(a)]**	Notwithstanding the bill's provisions requiring notice to Congress of negotiations falling within the scope of the President's added proclamation authority and the bill's provisions placing conditions on agreements that may be entered into under § 2003(b), the bill's notification requirements do not apply to certain agreements whose negotiations began before enactment; the applicability of fast-track procedures is to be determined without regard to § 2004(a) consultation requirements; a procedural disapproval resolution based on the President's failure or refusal to comply with these requirements will not be in order **[§ 2006(a)-(b)]** Provision applies to agreements resulting from: • WTO negotiations on information technology • negotiations or work programs initiated pursuant to a Uruguay Round agreement • negotiations with Chile • negotiations to achieve a free trade area of the Americas **[§ 2006(a)]**
Chief agricultural negotiator	Establishes in the Office of the USTR a Chief Agricultural Negotiator (appointed by the President with advice and consent of Senate, with rank of Ambassador and serving at the pleasure of the President) having as her or his primary function the conduct of trade negotiations relating to agricultural commodities and other functions as the USTR may direct **[§ 107]**	No provision

Conforming amendments	Amends various provisions to insert language referring to the RTAAA of 1997; makes certain sections of the Trade Act of 1974 applicable to agreements entered into and other actions under the RTAAA of 1997 **[§ 108]**	Same as House bill **[§ 2007]**
Definitions	Defines "United States person," "Uruguay Round agreements," "World Trade Organization," and "WTO Agreement" **[§ 109]**	Defines "distortion," "trade," "Uruguay Round Agreements," "WTO Agreement," "WTO." and "WTO member" (distortion "includes, but is not limited to a subsidy"; trade "includes, but is not limited to ... trade in both goods and services" and "foreign investment by United States persons, especially if such investment has implications for trade in goods and services) **[§ 2008]**"
Trade adjustment assistance	Extends trade adjustment assistance programs (TAA) for workers and firms and the NAFTA adjustment assistance program for two years — i.e., to the year 2000 **[§§ 201-202]** Requires the GAO to prepare a report evaluating TAA programs by October 1, 1999 **[§ 203]**	Same as House bill **[§ 3001]** No provision