

103^D CONGRESS
1ST SESSION

S. 269

To amend the Trade Act of 1974 to provide that interested persons may request review by the Trade Representative of a foreign country's compliance with trade agreements.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 2 (legislative day, JANUARY 5), 1993

Mr. BAUCUS (for himself, Mr. RIEGLE, Mr. ROCKEFELLER, Mr. REID, Mr. LEVIN, and Mr. DANFORTH) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Trade Act of 1974 to provide that interested persons may request review by the Trade Representative of a foreign country's compliance with trade agreements.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Trade Agreement
5 Compliance Act of 1993".

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—The Congress finds that—

1 (1) the United States has entered into numer-
2 ous trade agreements with foreign country trading
3 partners;

4 (2) foreign country performance with respect to
5 certain agreements has been less than contemplated,
6 and in some cases rises to the level of noncompli-
7 ance; and

8 (3) there is a need to provide a mechanism
9 whereby interested parties can obtain a periodic re-
10 view of the performance of a foreign country under
11 a trade agreement.

12 (b) PURPOSES.—The purposes of this Act are—

13 (1) to ensure that foreign countries which have
14 made commitments through agreements with the
15 United States fully abide by those commitments;

16 (2) to obtain foreign country compliance with
17 agreements with the United States through negotia-
18 tion or, in the alternative, through unilateral action
19 in cases in which the GATT dispute settlement pro-
20 cedures cannot be employed;

21 (3) to achieve a more open world trading sys-
22 tem which provides mutually advantageous market
23 opportunities for trade between the United States
24 and foreign countries;

1 (4) to facilitate the opening of foreign country
2 markets to exports of the United States and third
3 countries by eliminating trade barriers and increas-
4 ing the access of industry of the United States and
5 third countries to such markets; and

6 (5) to reduce diversion of third country exports
7 to the United States because of restricted market
8 access in foreign countries.

9 **SEC. 3. REVIEW OF TRADE AGREEMENTS.**

10 (a) IN GENERAL.—Chapter 1 of title III of the Trade
11 Act of 1974 (19 U.S.C. 2411 et seq.) is amended by in-
12 serting after section 306, the following new section:

13 **“SEC. 306A. REQUEST FOR REVIEW OF TRADE AGREE-**
14 **MENTS.**

15 “(a) ANNUAL REVIEW OF TRADE AGREEMENTS.—

16 “(1)(A) At the written request of an interested
17 person, the Trade Representative shall commence a
18 review to determine whether a foreign country is in
19 compliance with any trade agreement such country
20 has with the United States.

21 “(B) An interested person may file a written re-
22 quest for review under paragraph (1) at any time
23 after the date which is within 30 days after the an-
24 niversary of the effective date of such agreement,

1 but not later than 90 days before the date of the ex-
2 piration of such agreement.

3 “(C) A written request filed under this para-
4 graph shall—

5 “(i) identify the person filing the request
6 and the interest of that person which is affected
7 by the noncompliance of a foreign country with
8 a trade agreement with the United States;

9 “(ii) describe the rights of the United
10 States being denied under such trade agree-
11 ment; and

12 “(iii) include information reasonably avail-
13 able to the person regarding the failure of the
14 foreign country to comply with such trade
15 agreement.

16 “(2) Not later than 90 days after receipt of a
17 request for review under paragraph (1), the Trade
18 Representative shall determine whether any act, pol-
19 icy, or practice of the foreign country that is the
20 subject of the review is in material noncompliance
21 with the terms of such agreement.

22 “(3) In conducting a review under this sub-
23 section, the Trade Representative may, as the Trade
24 Representative determines appropriate, consult with

1 the Secretary of Commerce or the Secretary of
2 Agriculture.

3 “(4)(A) For purposes of this subsection, the
4 term ‘interested person’ means a person who has a
5 significant economic interest that is affected by the
6 failure of a foreign country to comply with a trade
7 agreement.

8 “(B) For purposes of this subsection, the term
9 ‘trade agreement’ means an agreement with the
10 United States and is not intended to include multi-
11 lateral trade agreements such as the General Agree-
12 ment on Tariffs and Trade.

13 “(b) FACTORS TO BE TAKEN INTO ACCOUNT.—In
14 making a determination under subsection (a)(2), the
15 Trade Representative shall take into account, among other
16 relevant factors—

17 “(1) achievement of the objectives of the agree-
18 ment,

19 “(2) adherence to commitments given, and

20 “(3) any evidence of actual patterns of trade
21 that do not reflect patterns of trade which would
22 reasonably be anticipated to flow from the conces-
23 sions or commitments of such country based on the
24 international competitive position and export poten-
25 tial of a United States industry.

1 The Trade Representative may seek the advice of the
2 United States International Trade Commission when con-
3 sidering these factors.

4 “(c) FURTHER ACTION.—

5 “(1) If, on the basis of the review carried out
6 under subsection (a), the Trade Representative de-
7 termines that a foreign country is in material non-
8 compliance with an agreement within the meaning of
9 subsection (a)(2), the Trade Representative shall de-
10 termine what further action to take under section
11 301(a).

12 “(2) For purposes of section 301, any deter-
13 mination made under subsection (a) shall be treated
14 as a determination made under section 304.

15 “(3) In determining what further action to take
16 under paragraph (1), the Trade Representative shall
17 take into account the criteria described in subsection
18 (d) with respect to possible sanctions.

19 “(d) SANCTIONS.—In developing a list of possible
20 sanctions to be imposed in the event a determination is
21 made under subsection (a)(2), the Trade Representative
22 shall seek to minimize any adverse impact on existing
23 business relations or economic interests of United States
24 persons, including consideration of taking action with re-

1 spect to future products for which a significant volume
2 of current trade does not exist.”.

3 (b) CONFORMING AMENDMENT.—The table of con-
4 tents of chapter 1 of title III of the Trade Act of 1974
5 is amended by inserting after the item relating to section
6 306 the following new item:

“Sec. 306A. Request for review of trade agreements.”.

7 **SEC. 4. INTERNATIONAL OBLIGATIONS.**

8 The amendments made by this Act shall not be con-
9 strued to require actions inconsistent with the inter-
10 national obligations of the United States, including obliga-
11 tions under the General Agreement on Tariffs and Trade.

○