

110TH CONGRESS  
2D SESSION

# S. 2611

To make bills implementing trade agreements subject to a point of order unless certain conditions are met, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 7 (legislative day, FEBRUARY 6), 2008

Mr. DORGAN (for himself, Mr. BROWN, and Mr. CASEY) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To make bills implementing trade agreements subject to a point of order unless certain conditions are met, and for other purposes.

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 Benchmarks and Accountability Act”.

6 **SEC. 2. LIMITATIONS ON BILLS IMPLEMENTING TRADE**  
7 **AGREEMENTS.**

8 (a) IN GENERAL.—Notwithstanding section 151 of  
9 the Trade Act of 1974 (19 U.S.C. 2191) or any other pro-  
10 vision of law, any bill implementing a trade agreement be-

1 tween the United States and another country shall be sub-  
2 ject to a point of order pursuant to subsection (c) unless  
3 the bill—

4 (1) is accompanied by a statement of the bench-  
5 marks described in subsection (b)(1) and that state-  
6 ment is approved as part of the implementing bill;  
7 and

8 (2) contains the reporting provisions described  
9 in subsection (b)(2).

10 (b) BENCHMARKS AND REPORTING PROVISIONS.—

11 (1) BENCHMARKS.—

12 (A) IN GENERAL.—Each bill implementing  
13 a trade agreement shall be accompanied by a  
14 statement that contains benchmarks described  
15 in subparagraph (B) and predictions made by  
16 the International Trade Commission, the  
17 United States Trade Representative, and other  
18 Federal agencies, of the impact the implementa-  
19 tion of the agreement will have on the United  
20 States economy.

21 (B) DESCRIPTION OF BENCHMARKS.—The  
22 benchmarks described in this subparagraph are  
23 as follows:

24 (i) An estimate of the number of new  
25 jobs that will be created, the number of ex-

1           isting jobs that will be lost, and the ex-  
2           pected net effect on job creation in the  
3           United States as a result of the agreement.  
4           The estimate shall include the number and  
5           type of the new jobs that will be created  
6           and lost.

7           (ii) An assessment and quantitative  
8           analysis of the extent to which the agree-  
9           ment will result in an improvement in  
10          wages for workers in the United States.

11          (iii) An assessment and quantitative  
12          analysis of how each country that is a  
13          party to the agreement is implementing  
14          and enforcing the labor and environmental  
15          standards that are part of the agreement.

16          (iv) A quantitative analysis of the ex-  
17          tent to which the agreement will result in  
18          an increase in the access by United States  
19          businesses to the market of each country  
20          that is a party to the agreement, particu-  
21          larly those sectors identified by the United  
22          States Trade Representative as of special  
23          importance with respect to the agreement.

24          (2) REPORTING PROVISIONS.—The reporting  
25          provisions described in this subsection are that each

1 bill implementing a trade agreement shall contain a  
2 requirement that not later than 5 years after the  
3 date the agreement enters into force with respect to  
4 the United States, and every 5 years thereafter, the  
5 International Trade Commission shall submit to  
6 Congress a report that provides an assessment and  
7 quantitative analysis of how the trade agreement has  
8 resulted in meeting the benchmarks described in  
9 paragraph (1).

10 (3) CONTENTS AND CONCLUSIONS OF RE-  
11 PORT.—The International Trade Commission shall  
12 determine in any report required by this section re-  
13 garding an agreement whether the benchmarks and  
14 predictions described in paragraph (1)(B) (i) and  
15 (ii) have been met with respect to that agreement.

16 (c) POINT OF ORDER IN SENATE.—The Senate shall  
17 cease consideration of a bill to implement a trade agree-  
18 ment, if—

19 (1) a point of order is made by any Senator  
20 against any bill implementing a trade agreement  
21 that is not accompanied by statement regarding the  
22 benchmarks to be achieved by the agreement or does  
23 not contain the reporting provisions regarding the  
24 benchmarks described in subsection (b); and

1           (2) the point of order is sustained by the Pre-  
2           siding Officer.

3           (d) WITHDRAWAL OF APPROVAL.—

4           (1) IN GENERAL.—The approval of Congress,  
5           provided in a bill to implement a trade agreement,  
6           shall cease to be effective if, and only if, a report de-  
7           scribed in subsection (b) indicates that the bench-  
8           marks and predictions made in connection with the  
9           agreement are not being met and a joint resolution  
10          described in subsection (e) is enacted into law pursu-  
11          ant to the provisions of subsection (e) and para-  
12          graph (2).

13          (2) PROCEDURAL PROVISIONS.—

14           (A) IN GENERAL.—The requirements of  
15           this paragraph are met if the joint resolution is  
16           enacted under subsection (e), and—

17           (i) Congress adopts and transmits the  
18           joint resolution to the President before the  
19           end of the 1-year period (excluding any  
20           day described in section 154(b) of the  
21           Trade Act of 1974 (19 U.S.C. 2194(b)),  
22           beginning on the date on which Congress  
23           receives a report described in subsection  
24           (b); and

1           (ii) if the President vetoes the joint  
 2 resolution, each House of Congress votes  
 3 to override that veto on or before the later  
 4 of the last day of the 1-year period re-  
 5 ferred to in clause (i) or the last day of the  
 6 15-day period (excluding any day described  
 7 in section 154(b) of the Trade Act of  
 8 1974) beginning on the date on which Con-  
 9 gress receives the veto message from the  
 10 President.

11           (B) INTRODUCTION.—A joint resolution to  
 12 which this section applies may be introduced at  
 13 any time on or after the date on which the  
 14 International Trade Commission transmits to  
 15 Congress a report described in subsection (b),  
 16 and before the end of the 1-year period referred  
 17 to in subparagraph (A)(i).

18           (e) JOINT RESOLUTIONS.—

19           (1) JOINT RESOLUTIONS.—For purposes of this  
 20 section, the term “joint resolution” means only a  
 21 joint resolution of the 2 Houses of Congress, the  
 22 matter after the resolving clause of which is as fol-  
 23 lows: “That Congress withdraws its approval, pro-  
 24 vided under section \_\_\_\_\_ of the  
 25 \_\_\_\_\_, of the \_\_\_\_\_

1 Agreement.”, with the first blank space being filled  
2 with the section of the Act implementing and ap-  
3 proving the applicable agreement, the second blank  
4 space being filled with the name of the Act imple-  
5 menting and approving the agreement, and the third  
6 blank space being filled with the title of the agree-  
7 ment.

8 (2) PROCEDURES.—

9 (A) INTRODUCTION AND REFERRAL.—

10 (i) HOUSE OF REPRESENTATIVES.—

11 Joint Resolutions in the House of Rep-  
12 resentatives—

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

15 (II) shall be referred to the Com-  
16 mittee on Ways and Means and, in  
17 addition, to the Committee on Rules;  
18 and

19 (III) may not be amended by ei-  
20 ther Committee.

21 (ii) SENATE.—Joint Resolutions in  
22 the Senate—

23 (I) may be introduced by any  
24 Member of the Senate;

1 (II) shall be referred to the Com-  
2 mittee on Finance; and

3 (III) may not be amended.

4 (B) CONSIDERATION BY COMMITTEES.—

5 (i) HOUSE OF REPRESENTATIVES.—It  
6 is not in order for the House of Represent-  
7 atives to consider any resolution that is not  
8 reported by the Committee on Ways and  
9 Means and, in addition, by the Committee  
10 on Rules.

11 (ii) SENATE.—It is not in order for  
12 the Senate to consider any resolution that  
13 is not reported by the Committee on Fi-  
14 nance.

15 (C) APPLICATION OF OTHER PROVI-  
16 SIONS.—The provisions of section 152 (c), (d),  
17 and (e) of the Trade Act of 1974 (19 U.S.C.  
18 2192 (c), (d), and (e)) (relating to discharge of  
19 committees and floor consideration of certain  
20 resolutions in the House and Senate) shall  
21 apply to joint resolutions under this section to  
22 the same extent as such provisions apply to res-  
23 olutions under such section.

1           (3) RULES OF HOUSE OF REPRESENTATIVES  
2           AND SENATE.—This subsection is enacted by Con-  
3           gress—

4                   (A) as an exercise of the rulemaking power  
5           of the House of Representatives and the Sen-  
6           ate, respectively, and as such is deemed a part  
7           of the rules of each House, respectively, and  
8           such procedures supersede other rules only to  
9           the extent that they are inconsistent with such  
10          other rules; and

11                   (B) with the full recognition of the con-  
12          stitutional right of either House to change the  
13          rules (so far as relating to the procedures of  
14          that House) at any time, in the same manner  
15          and to the same extent as any other rule of that  
16          House.

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