

103^D CONGRESS
2^D SESSION

S. 1939

To authorize the establishment of a free trade area in the Western Hemisphere.

IN THE SENATE OF THE UNITED STATES

MARCH 16 (legislative day, FEBRUARY 22), 1994

Mr. DODD introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To authorize the establishment of a free trade area in the Western Hemisphere.

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 “Western Hemisphere
5 Free Trade Area Act of 1994”.

6 **TITLE I—POLICY AND PURPOSES**

7 **SEC. 101. STATEMENT OF POLICY.**

8 It shall be the policy of the United States to seek
9 an agreement for the establishment before the year 2000
10 of a free trade area covering, to the maximum extent pos-

1 sible, the countries and territories geographically located
2 in the Western Hemisphere.

3 **SEC. 102. PURPOSES.**

4 The purposes of a free trade area in the Western
5 Hemisphere are to—

6 (1) strengthen the special bonds of friendship
7 and cooperation among nations in the Hemisphere;

8 (2) contribute to economic development and
9 strengthen democratic institutions through enhanced
10 Hemispheric cooperation;

11 (3) create an expanded and secure market for
12 goods and services throughout the Hemisphere;

13 (4) generate and sustain more and better qual-
14 ity employment for people throughout the Hemi-
15 sphere;

16 (5) facilitate economic growth in the Hemi-
17 sphere;

18 (6) establish clear and fair rules governing
19 trade in goods and services;

20 (7) reduce distortions in trade and ensure a
21 predictable and transparent framework for invest-
22 ment planning;

23 (8) enhance global competition; and

24 (9) promote the protection and preservation of
25 the environment.

1 **TITLE II—NEGOTIATING**
2 **AUTHORITY AND ELIGIBILITY**

3 **SEC. 201. AUTHORITY AND NEGOTIATING OBJECTIVES.**

4 (a) AGREEMENT.—The President is authorized to un-
5 dertake multilateral negotiations with governments of eli-
6 gible Western Hemisphere countries and territories in
7 order to reach an agreement establishing a free trade area
8 in the Western Hemisphere at the earliest possible date.

9 (b) OBJECTIVES.—The overall trade negotiating ob-
10 jectives of the United States are—

11 (1) to eliminate barriers to trade in, and facili-
12 tate cross border movement of, goods and services
13 between countries and territories in the Western
14 Hemisphere;

15 (2) to promote fair competition in the Western
16 Hemisphere;

17 (3) to substantially increase investment oppor-
18 tunities in countries and territories of the Western
19 Hemisphere;

20 (4) to provide adequate and effective protection
21 and enforcement of intellectual property rights
22 throughout the Western Hemisphere;

23 (5) to establish procedures to promote and
24 guarantee respect for international workers rights
25 within the Western Hemisphere;

1 (6) to establish reciprocal market access among
2 the countries and territories of the Western Hemi-
3 sphere;

4 (7) to establish an effective system of trading
5 disciplines and dispute resolution procedures;

6 (8) to codify standards to protect and improve
7 the environment throughout the Western Hemi-
8 sphere; and

9 (9) to establish such other principles as are
10 consistent with the obligations of the North Amer-
11 ican Free Trade Agreement.

12 **SEC. 202. ELIGIBILITY REQUIREMENTS.**

13 (a) SPECIFIC COUNTRIES.—A country shall be treat-
14 ed as an eligible Western Hemisphere country or territory
15 if—

16 (1) it is a country designated as a beneficiary
17 country pursuant to the Andean Trade Preference
18 Act (19 U.S.C. 3201);

19 (2) it is a country designed as a beneficiary
20 country pursuant to the Caribbean Basin Economic
21 Recovery Act (19 U.S.C. 2701 et seq.);

22 (3) it is a NAFTA country as defined in section
23 2(4) of the North American Free Trade Agreement
24 Implementation Act (Public Law 103–182; 19
25 U.S.C. 3301);

1 (4) it is the Commonwealth of Puerto Rico; or

2 (5) it is one of the United States Virgin
3 Islands.

4 (b) OTHER COUNTRIES.—In addition to the countries
5 described in subsection (a), a country or territory shall
6 be considered an eligible Western Hemisphere country or
7 territory, if the President determines (after consultation
8 with the Secretary General of the Organization of Amer-
9 ican States) that such country or territory—

10 (1) is located in the Western Hemisphere;

11 (2) has a government that is democratically
12 elected in free and fair elections and the government
13 abides by the country's constitution and laws;

14 (3) has demonstrated a consistent pattern of re-
15 spect for internationally recognized human rights of
16 all peoples within its territories;

17 (4) has implemented economic policies and in-
18 vestment reforms that are compatible with the obli-
19 gations and principles expressed in the North Amer-
20 ican Free Trade Agreement;

21 (5) has expressed an interest in participating in
22 a Western Hemisphere free trade area;

23 (6) has in place or is prepared to adopt laws
24 that will ensure the protection and preservation of
25 the environment in and around its territory; and

1 (7) has adopted and is enforcing laws that
2 guarantee internationally recognized workers' rights
3 with respect to its work force.

4 **TITLE III—ENTRY INTO FORCE**
5 **OF FREE TRADE AREA**
6 **AGREEMENT**

7 **SEC. 301. IMPLEMENTATION OF FREE TRADE AREA AGREE-**
8 **MENT.**

9 (a) IN GENERAL.—Any agreement concluded under
10 section 201(a) of this Act to establish a free trade area
11 in the Western Hemisphere shall enter into force if (and
12 only if)—

13 (1) the governments of not less than 15 eligible
14 countries or territories become signatories to the
15 agreement and express their intention to ratify or
16 otherwise accede to the agreement;

17 (2) the agreement provides for expeditious ac-
18 cession of other countries in the Hemisphere;

19 (3) the Agreement makes progress in meeting
20 the objectives described in section 201;

21 (4) the President, at least 60 days before the
22 date notice is provided under paragraph (5)—

23 (A) provides written notice of such negotia-
24 tions to the Committee on Finance of the Sen-

1 ate and the Committee on Ways and Means of
2 the House of Representatives; and

3 (B) consults with such committees regard-
4 ing the negotiation of such Agreement;

5 (5) the President, at least 90 days before the
6 day on which the President enters into the agree-
7 ment, notifies the House of Representatives and the
8 Senate of the President's intention to enter into
9 such agreement, and promptly thereafter publishes
10 notice of such intention in the Federal Register;

11 (6) after entering into the agreement, the Presi-
12 dent submits a document to the House of Represent-
13 atives and to the Senate containing a copy of the
14 final legal text of the agreement, together with—

15 (A) a draft implementing bill;

16 (B) a statement of any administrative ac-
17 tion proposed to implement the agreement; and

18 (C) the supporting information describing
19 how the agreement satisfies the requirements of
20 this Act; and

21 (7) the implementing bill submitted pursuant to
22 paragraph (6) has been enacted into law.

23 The 60-day period of time described in paragraph (4) and
24 the 90-day period of time described in paragraph (5) shall
25 be computed in accordance with section 303(h).

1 (b) SUPPORTING INFORMATION.—The supporting in-
2 formation required under subsection (a)(6)(C) consists
3 of—

4 (1) an explanation as to how the implementing
5 bill and proposed administrative action will change
6 or affect existing law; and

7 (2) a statement—

8 (A) asserting that the agreement makes
9 progress in achieving the applicable purposes,
10 policies, and objectives of this Act;

11 (B) setting forth the reasons of the Presi-
12 dent regarding—

13 (i) how and to what extent the agree-
14 ment makes progress in achieving the ap-
15 plicable purposes, policies, and objectives
16 referred to in subparagraph (A), and why
17 and to what extent the agreement does not
18 achieve other applicable purposes, policies,
19 and objectives;

20 (ii) how the agreement serves the in-
21 terests of United States commerce; and

22 (iii) why the implementing bill and
23 proposed administrative action is required
24 or appropriate to carry out the agreement;

1 (C) describing the efforts made by the
2 President to obtain international exchange rate
3 equilibrium and any effect the agreement may
4 have regarding increased international mone-
5 tary stability; and

6 (D) describing the extent, if any, to
7 which—

8 (i) each eligible country or territory
9 that is a party to the agreement maintains
10 noncommercial State trading enterprises
11 that may adversely affect, nullify, or im-
12 pair the benefits to the United States
13 under the agreement; and

14 (ii) the agreement applies to or affects
15 purchases and sales by such enterprises.

16 (c) APPLICATION OF BENEFITS.—To ensure that an
17 eligible country or territory which receives benefits under
18 a trade agreement entered into under this Act is subject
19 to the obligations imposed by such agreement, the Presi-
20 dent shall recommend to the Congress in the implementing
21 bill and statement of administrative action submitted with
22 respect to such agreement that the benefits and obliga-
23 tions of such agreement apply solely to the parties to such
24 agreement, if such application is consistent with the terms
25 of such agreement. The President may also recommend

1 with respect to any such agreement that the benefits and
2 obligations of such agreement not apply uniformly to all
3 parties to such agreement, if such application is consistent
4 with the terms of such agreement.

5 **SEC. 302. APPLICATION OF CONGRESSIONAL “FAST TRACK**
6 **PROCEDURES” TO IMPLEMENTING BILL.**

7 (a) IN GENERAL.—Except as provided in section
8 303—

9 (1) the provisions of section 151 of the Trade
10 Act of 1974 (19 U.S.C. 2191) (hereafter in this sec-
11 tion referred to as “fast track procedures”) apply to
12 implementing bills submitted with respect to a trade
13 agreement entered into pursuant to this Act before
14 December 31, 1999; and

15 (2) such fast track procedures shall be extended
16 to implementing bills submitted with respect to a
17 trade agreement entered into under this Act after
18 December 30, 1999, and before December 31, 2002,
19 if (and only if)—

20 (A) the President requests such extension
21 under subsection (b); and

22 (B) neither House of the Congress adopts
23 an extension disapproval resolution under sub-
24 section (e) before December 31, 1999.

1 (b) REQUEST FOR EXTENSION.—If the President is
2 of the opinion that the fast track procedures should be
3 extended to an implementing bill described in subsection
4 (a)(2), the President must submit to the Congress, no
5 later than June 30, 1999, a written report that contains
6 a request for such extension, together with—

7 (1) a description of the status of the trade
8 agreement, and the anticipated schedule for submit-
9 ting such agreement to the Congress for approval;

10 (2) a description of the progress that has been
11 made in negotiations to achieve the purposes, poli-
12 cies, and objectives of this Act, and a statement that
13 such progress justifies the continuation of negotia-
14 tions; and

15 (3) a statement of the reasons why the exten-
16 sion is needed to complete the negotiations.

17 (c) VIEWS OF ADVISORY COMMITTEE.—The Presi-
18 dent shall promptly inform the Advisory Committee for
19 Trade Policy and Negotiations established under section
20 135 of the Trade Act of 1974 (19 U.S.C. 2155) of the
21 President's decision to submit a report to the Congress
22 under subsection (b). The Advisory Committee shall sub-
23 mit to the Congress as soon as practicable, but no later
24 than June 30, 1999, a written report that contains—

1 (1) its views regarding the progress that has
2 been made in negotiations to achieve the purposes,
3 policies, and objectives of this Act; and

4 (2) a statement of its views, and the reasons
5 therefor, regarding whether the extension requested
6 under subsection (b) should be approved or dis-
7 approved.

8 (d) REPORTS MAY BE CLASSIFIED.—The reports
9 submitted to the Congress under subsections (b) and (c),
10 or any portion of the reports, may be classified to the ex-
11 tent the President determines appropriate.

12 (e) EXTENSION DISAPPROVAL RESOLUTION.—

13 (1) IN GENERAL.—For purposes of this section,
14 the term “extension disapproval resolution” means a
15 resolution of either House of the Congress, the sole
16 matter after the resolving clause of which is as fol-
17 lows: “That the _____ disapproves the request
18 of the President for the extension, under section 302
19 of the Western Hemisphere Free Trade Area Act of
20 1994, of the provisions of section 151 of the Trade
21 Act of 1974 to an implementing bill submitted with
22 respect to a trade agreement entered into under sec-
23 tion 201 of such Act of 1974 after December 30,
24 1999, because sufficient tangible progress has not
25 been made in trade negotiations.”, with the blank

1 space being filled with the name of the resolving
2 House of the Congress.

3 (2) PROCEDURE.—An extension disapproval
4 resolution—

5 (A) may be introduced in either House of
6 the Congress by any member of such House;
7 and

8 (B) shall be jointly referred, in the House
9 of Representatives, to the Committee on Ways
10 and Means and the Committee on Rules.

11 (3) SECTION 152 (d) AND (e).—The provisions
12 of section 152 (d) and (e) of the Trade Act of 1974
13 (19 U.S.C. 2192 (d) and (e)) (relating to the floor
14 consideration of certain resolutions in the House and
15 Senate) apply to extension disapproval resolutions.

16 (4) COMMITTEE REPORTS.—It is not in order
17 for—

18 (A) the Senate to consider any extension
19 disapproval resolution not reported by the Com-
20 mittee on Finance;

21 (B) the House of Representatives to con-
22 sider any extension disapproval resolution not
23 reported by the Committee on Ways and Means
24 and the Committee on Rules; or

1 (C) either House of the Congress to con-
2 sider an extension disapproval resolution that is
3 reported to such House after December 15,
4 1999.

5 **SEC. 303. LIMITATIONS ON USE OF “FAST TRACK PROCE-**
6 **DURES”.**

7 (a) IN GENERAL.—The fast track procedures shall
8 not apply to any implementing bill submitted with respect
9 to a trade agreement entered into under this Act if both
10 Houses of the Congress separately agree to a procedural
11 disapproval resolution within any 60-day period.

12 (b) PROCEDURAL DISAPPROVAL RESOLUTION.—A
13 procedural disapproval resolution—

14 (1) in the House of Representatives—

15 (A) shall be introduced by the chairman or
16 ranking Minority Member of the Committee on
17 Ways and Means or the Chairman or ranking
18 Minority Member of the Committee on Rules;

19 (B) shall be jointly referred to the Com-
20 mittee on Ways and Means and the Committee
21 on Rules; and

22 (C) may not be amended by either commit-
23 tee; and

24 (2) in the Senate shall be an original resolution
25 of the Committee on Finance.

1 (c) FLOOR CONSIDERATION.—The provisions of sec-
2 tion 152 (d) and (e) of the Trade Act of 1974 (19 U.S.C.
3 2192 (d) and (e)) (relating to the floor consideration of
4 certain resolutions in the House and Senate) apply to pro-
5 cedural disapproval resolutions.

6 (d) RESOLUTION MUST BE REPORTED.—It is not in
7 order for the House of Representatives to consider any
8 procedural disapproval resolution not reported by the
9 Committee on Ways and Means and the Committee on
10 Rules.

11 (e) DEFINITION.—For purposes of this subsection,
12 the term “procedural disapproval resolution” means a res-
13 olution of either House of the Congress, the sole matter
14 after the resolving clause of which is as follows: “That
15 the President has failed or refused to consult with Con-
16 gress on trade negotiations and the trade agreement in
17 accordance with the provisions of the Western Hemisphere
18 Free Trade Area Act of 1994, and, therefore, the provi-
19 sions of section 151 of the Trade Act of 1974 shall not
20 apply to any implementing bill submitted with respect to
21 any trade agreement entered into under section 201 of
22 such Act of 1994, if, during the 60-day period beginning
23 on the date on which this resolution is agreed to by the
24 ____, the ____ agrees to a procedural disapproval resolu-
25 tion (within the meaning of section 303(e) of such Act

1 of 1994).”, with the first blank space being filled with the
2 name of the resolving House of the Congress and the sec-
3 ond blank space being filled with the name of the other
4 House of the Congress.

5 (f) LIMITATIONS.—

6 (1) IN GENERAL.—The fast track procedures
7 shall not apply to any implementing bill that con-
8 tains a provision approving a trade agreement which
9 is entered into under section 201 with an eligible
10 country or territory if either—

11 (A) the requirements of section 301(a) are
12 not met with respect to the negotiation of such
13 agreement; or

14 (B) the Committee on Finance of the Sen-
15 ate or the Committee on Ways and Means of
16 the House of Representatives disapproves of the
17 negotiation of such agreement before the close
18 of the 60-day period which begins on the date
19 notice is provided under section 301(a)(4) with
20 respect to the negotiation of such agreement.

21 (g) RULES OF HOUSE OF REPRESENTATIVES AND
22 SENATE.—This section and section 302 are enacted by the
23 Congress—

24 (1) as an exercise of the rulemaking power of
25 the House of Representatives and the Senate, re-

1 spectively, and as such is deemed a part of the rules
2 of each House, respectively, and such procedures su-
3 persede other rules only to the extent that they are
4 inconsistent with such other rules; and

5 (2) with the full recognition of the constitu-
6 tional right of either House to change the rules (so
7 far as relating to the procedures of that House) at
8 any time, in the same manner, and to the same ex-
9 tent as any other rule of that House.

10 (h) COMPUTATION OF CERTAIN PERIODS OF TIME.—

11 Each period of time described in subsections (a) and (e),
12 and paragraph (2) of this section shall be computed with-
13 out regard to—

14 (1) the days on which either House of Congress
15 is not in session because of an adjournment of more
16 than 3 days to a day certain or an adjournment of
17 the Congress sine die; and

18 (2) any Saturday and Sunday, not excluded
19 under paragraph (1), when either House of the
20 Congress is not in session.

21 **SEC. 304. DEFINITIONS.**

22 For purposes of this title:

23 (1) IMPLEMENTING BILL.—The term “imple-
24 menting bill” has the meaning given such term in

1 section 151(b)(1) of the Trade Act of 1974 (19
2 U.S.C. 2191(b)(1)).

3 (2) STATE TRADING ENTERPRISE.—The term
4 “State trading enterprise” means—

5 (A) any agency, instrumentality, or admin-
6 istrative unit of a foreign country which—

7 (i) purchases goods or services in
8 international trade for any purpose other
9 than the use of such goods or services by
10 such agency, instrumentality, administra-
11 tive unit, or foreign country, or

12 (ii) sells goods or services in inter-
13 national trade; or

14 (B) any business firm which—

15 (i) is substantially owned or controlled
16 by a foreign country or any agency, instru-
17 mentality, or administrative unit thereof,

18 (ii) is granted (formally or informally)
19 any special or exclusive privilege by such
20 foreign country, agency, instrumentality,
21 or administrative unit, and

22 (iii) purchases goods or services in
23 international trade for any purpose other
24 than the use of such goods or services by
25 such foreign country, agency, instrumentality,

1 ity, or administrative unit, or which sells
2 goods or services in international trade.

3 **TITLE IV—HEMISPHERE TRADE**
4 **ORGANIZATION**

5 **SEC. 401. ESTABLISHMENT OF THE WESTERN HEMISPHERE**
6 **TRADE ORGANIZATION.**

7 (a) POLICY.—In order to facilitate the early conclu-
8 sion of an agreement to establish a free trade area in the
9 Western Hemisphere, the President should consider the
10 advisability of proposing the creation of a Western Hemi-
11 sphere Trade Organization as a specialized organization
12 of the Organization of American States and designating
13 the United States Trade Representative as the President's
14 representative to such organization.

15 (b) PURPOSE.—The purpose of the Western Hemi-
16 sphere Trade Organization shall be—

17 (1) to serve as the locus for negotiations of a
18 free trade area agreement in the Western Hemi-
19 sphere; and

20 (2) to facilitate the implementation and enforce-
21 ment of the provisions of such agreement.

1 **TITLE V—AUTHORIZATION OF**
2 **APPROPRIATIONS**

3 **SEC. 501. AUTHORIZATION OF APPROPRIATIONS.**

4 (a) **IN GENERAL.**—Beginning in fiscal year 1995,
5 and each fiscal year thereafter, there are authorized to be
6 appropriated to the President such sums as may be nec-
7 essary to carry out the purposes of this Act.

8 (b) **TRANSFER AUTHORITY.**—The President may
9 transfer such amounts of the sums appropriated as the
10 President deems necessary to any agency of the govern-
11 ment or to any international organization established to
12 facilitate the purposes of this Act.

13 (c) **AVAILABILITY OF FUNDS.**—Funds authorized to
14 be appropriated pursuant to this Act shall remain avail-
15 able until expended.

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