

PROVIDING FOR THE CONSIDERATION OF H.R. 2621, THE
RECIPROCAL TRADE AGREEMENT AUTHORITIES ACT OF
1997

NOVEMBER 6, 1997.—Referred to the House Calendar and ordered to be printed

Mr. DREIER, from the Committee on Rules,
submitted the following

REPORT

[To accompany H. Res. 309]

The Committee on Rules, having had under consideration House Resolution 309, by a record vote of 6–4, report the same to the House with the recommendation that the resolution be adopted.

BRIEF SUMMARY OF PROVISIONS OF RESOLUTION

The resolution provides for the consideration of H.R. 2621, the “Reciprocal Trade Agreement Authorities Act of 1997,” under a closed rule. The rule provides two hours of debate divided equally between the chairman and ranking minority member of the Committee on Ways and Means.

The rule provides that the amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill, modified by the amendments printed in this report, be considered as adopted.

The rule waives all points of order against the bill, as amended. Finally, the rule provides for one motion to recommit, with or without instructions.

COMMITTEE VOTES

Pursuant to clause 2(1)(2)(B) of House rule XI the results of each rollcall vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee Rollcall No. 77

Date: November 6, 1997.

Measure: H.R. 2621, Reciprocal Trade Agreement Authorities Act of 1997.

Motion by: Mr. Moakley.

Summary of motion: To make in order the Boswell amendment, to ensure effective child labor laws in countries with which the U.S. enters into trade agreements.

Results: Rejected 3–5.

Vote by Members: Drier—Nay; McInnis—Nay; Hastings—Nay; Myrick—Nay; Moakley—Yea; Frost—Yea; Hall—Yea; Solomon—Nay.

Rules Committee Rollcall No. 78

Date: November 6, 1997.

Measure: H.R. 2621, Reciprocal Trade Agreement Authorities Act of 1997.

Motion by: Mr. Dreier.

Summary of motion: To order the rule reported.

Results: Adopted 6–4.

Vote by Members: Dreier—Yea; Pryce—Yea; McInnis—Yea; Hastings—Yea; Myrick—Yea; Moakley—Nay; Frost—Nay; Hall—Nay; Slaughter—Nay; Solomon—Yea.

SUMMARY OF AMENDMENTS CONSIDERED AS ADOPTED TO H.R. 2621

New provision to establish a “Special 301” procedure for identifying countries that deny market access for United States agricultural products.

New Title III deletes “repeal of the special rule for rental use of vacation homes, etc., for less than fifteen days” and replaces with a revenue offset which clarifies the time when an employer may deduct accrued severance pay. Under the Internal Revenue Code, accrued severance pay which is deferred compensation may not be deducted until paid. In a recent case, *Schmidt Baking Co., Inc.*, the Tax Court rule that the employer’s purchase of a letter of credit to guarantee vacation and severance pay would be treated as a payment of the accrued pay and allowed the employer a deduction. This result is inconsistent with Congressional intent and would be overturned by the revenue offset provision.

New provision to Section 102(b)(7)(B) stating that nothing in this subsection is to be construed to authorize inclusion in an implementing bill or in an agreement to an implementing bill provisions that would restrict the autonomy of the United States in the listed areas.

Technical changes.

TEXT OF AMENDMENTS CONSIDERED AS ADOPTED TO H.R. 2621

In section 102(b)(6), in the matter preceding subparagraph (A), insert “of agricultural commodities” after “United States exports”.

In section 102(b)(7)(B), add the following at the end of the subparagraph: “Nothing in this subparagraph shall be construed to authorize inclusion in an implementing bill under this Act or in an agreement subject to an implementing bill under this Act provisions that would restrict the autonomy of the United States in these areas.”.

In section 103(a)(1), move the indentation of the text that reads “The President shall notify the Congress of the President’s inten-

tion to enter into an agreement under this subsection.” 2 ems to the left.

In section 105(b)(1), amend the paragraph caption to read as follows:

(1) FOR LACK OF NOTICE OR CONSULTATIONS.—

In section 105(b)(1), amend subparagraph (B) to read as follows:

(B) PROCEDURAL DISAPPROVAL RESOLUTION.—For purposes of this paragraph, the term “procedural disapproval resolution” means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: “That the President has failed or refused to notify or consult (as the case may be) with Congress in accordance with section 104 or 105 of the Reciprocal Trade Agreement Authorities Act of 1997 on negotiations with respect to _____ and, therefore, the trade authorities procedures under the Act shall not apply to any implementing bill submitted with respect to that trade agreement.”, with the blank space being filled with a description of the trade agreement with respect to which the President is considered to have failed or refused to notify or consult.

In section 103(c), amend paragraph (5)(A) to read as follows:

(5) EXTENSION DISAPPROVAL RESOLUTIONS.—(A) For purposes of paragraph (1), the term “extension disapproval resolution” means a resolution of either House of the Congress, the sole matter after the resolving clause of which is as follows: “That the _____ disapproves the request of the President for the extension, under section 103(c)(1)(B)(i) of the Reciprocal Trade Agreement Authorities Act of 1997, of the trade authorities procedures under that Act to any implementing bill submitted with respect to any trade agreement entered into under section 103(b) of that Act after September 30, 2001.”, with the blank space being filled with the name of the resolving House of the Congress.

In section 108(a), amend paragraph (1) to read as follows:

(1) IMPLEMENTING BILL.—Section 151(b)(1) (19 U.S.C. 2191(b)(1)) is amended by striking “, section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988,”.

Insert the following after section 107 and redesignate the succeeding sections accordingly:

SEC. 108. IDENTIFICATION OF COUNTRIES THAT DENY MARKET ACCESS FOR UNITED STATES AGRICULTURAL PRODUCTS.

(a) IDENTIFICATION REQUIRED.—

(1) IN GENERAL.—Chapter 8 of title I of the Trade Act of 1974 is amended by adding at the end the following:

“SEC. 183. IDENTIFICATION OF COUNTRIES THAT DENY MARKET ACCESS FOR AGRICULTURAL PRODUCTS.

“(a) IN GENERAL.—Not later than the date that is 30 days after the date on which the annual report is required to be submitted to Congressional committees under section 181(b), the United States Trade Representative (hereafter in this section referred to as the ‘Trade Representative’) shall identify—

“(1) those foreign countries that—

“(A) deny fair and equitable market access to United States agricultural products, or

- “(B) apply unjustified sanitary or phytosanitary standards for imported agricultural products from the United States; and
- “(2) those foreign countries identified under paragraph (1) that are determined by the Trade Representative to be priority foreign countries.
- “(b) SPECIAL RULES FOR IDENTIFICATIONS.—
- “(1) CRITERIA.—In identifying priority foreign countries under subsection (a)(2), the Trade Representative shall only identify those foreign countries—
- “(A) that engage in or have the most onerous or egregious acts, policies, or practices that deny fair and equitable market access to United States agricultural products,
- “(B) whose acts, policies, or practices described in subparagraph (A) have the greatest adverse impact (actual or potential) on the relevant United States products, and
- “(C) that are not—
- “(i) entering into good faith negotiations, or
- “(ii) making significant progress in bilateral or multilateral negotiations,
- to provide fair and equitable market access to United States agricultural products.
- “(2) CONSULTATION AND CONSIDERATION REQUIREMENTS.—In identifying priority foreign countries under subsection (a)(2), the Trade Representative shall—
- “(A) consult with the Secretary of Agriculture and other appropriate officers of the Federal Government, and
- “(B) take into account information from such sources as may be available to the Trade Representative and such information as may be submitted to the Trade Representative by interested persons, including information contained in reports submitted under section 181(b) and petitions submitted under section 302.
- “(3) FACTUAL BASIS REQUIREMENT.—The Trade Representative may identify a foreign country under subsection (a)(1) only if the Trade Representative finds that there is a factual basis for the denial of fair and equitable market access as a result of the violation of international law or agreement, or the existence of barriers, referred to in subsection (d).
- “(4) CONSIDERATION OF HISTORICAL FACTORS.—In identifying foreign countries under paragraphs (1) and (2) of subsection (a), the Trade Representative shall take into account—
- “(A) the history of agricultural trade relations with the foreign country, including any previous identification under subsection (a)(2), and
- “(B) the history of efforts of the United States, and the response of the foreign country, to achieve fair and equitable market access for United States agricultural products.
- “(c) REVOCATIONS AND ADDITIONAL IDENTIFICATIONS.—
- “(1) AUTHORITY TO ACT AT ANY TIME.—If information available to the Trade Representative indicates that such action is appropriate, the Trade Representative may at any time—

“(A) revoke the identification of any foreign country as a priority foreign country under this section, or

“(B) identify any foreign country as a priority foreign country under this section.

“(2) REVOCATION REPORTS.—The Trade Representative shall include in the semiannual report submitted to the Congress under section 309(3) a detailed explanation of the reasons for the revocation under paragraph (1) of the identification of any foreign country as a priority foreign country under this section.

“(d) DEFINITIONS.—For purposes of this section, a foreign country denies fair and equitable market access if the foreign country effectively denies access to a market for a product through the use of laws, procedures, practices, or regulations which—

“(1) violate provisions of international law or international agreements to which both the United States and the foreign country are parties, or

“(2) constitute discriminatory nontariff trade barriers.

“(e) PUBLICATION.—The Trade Representative shall publish in the Federal Register a list of foreign countries identified under subsection (a) and shall make such revisions to the list as may be required by reason of the action under subsection (c).

“(f) ANNUAL REPORT.—The Trade Representative shall, not later than the date by which countries are identified under subsection (a), transmit to the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on the actions taken under this section during the 12 months preceding such report, and the reasons for such actions, including a description of progress made in achieving fair and equitable market access for United States agricultural products.”.

(2) CLERICAL AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by inserting after the item relating to section 182 the following:

“Sec. 183. Identification of countries that deny market access for agricultural products.”.

(b) INVESTIGATIONS.—

(1) IN GENERAL.—Subparagraph (A) of section 302(b)(2) of the Trade Act of 1974 (19 U.S.C. 2412(b)(2)) is amended by inserting “or 183(a)(2)” after “section 182(a)(2)” in the matter preceding clause (i).

(2) CONFORMING AMENDMENT.—Subparagraph (D) of section 302(b)(2) of such Act is amended by inserting “concerning intellectual property rights that is” after “any investigation”.

Strike title III and insert the following:

TITLE III—CLARIFICATION OF WHETHER SEVERANCE PAY IS DEFERRED COMPENSATION, ETC.

SEC. 301. CLARIFICATION OF WHETHER SEVERANCE PAY IS DEFERRED COMPENSATION, ETC.

(a) **IN GENERAL.**—Subsection (a) of section 404 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(11) **DETERMINATIONS RELATING TO SEVERANCE PAY.**—For purposes of determining under this section—

“(A) whether severance pay of an employee is deferred compensation, and

“(B) when severance pay which is deferred compensation is paid,

no amount shall be treated as received by the employee, or paid, until it is actually received by the employee.”

(b) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendment made by this section shall apply to taxable years ending after October 8, 1997.

(2) **CHANGE IN METHOD OF ACCOUNTING.**—In the case of any taxpayer required by this section to change its method of accounting for its first taxable year ending after October 8, 1997—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account in such first taxable year.