

106TH CONGRESS
1ST SESSION

S. 1073

To amend the Trade Act of 1974 to ensure that United States industry is consulted with respect to all aspects of the WTO dispute settlement process.

IN THE SENATE OF THE UNITED STATES

MAY 18 (legislative day, MAY 14), 1999

Mr. ASHCROFT (for himself, Mr. INOUE, Mr. BURNS, Mr. GRASSLEY, Mr. ROBERTS, Mr. ENZI, and Mr. HAGEL) 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 ensure that United States industry is consulted with respect to all aspects of the WTO dispute settlement process.

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. PUBLIC PARTICIPATION IN IMPLEMENTING**
4 **WTO DISPUTE SETTLEMENTS.**

5 (a) IN GENERAL.—Section 306(b)(2) of the Trade
6 Act of 1974 (19 U.S.C. 2416(b)(2)) is amended—

7 (1) by striking “If the” and inserting “(A)

8 FAILURE TO IMPLEMENT RECOMMENDATION.—If
9 the”; and

(2) by adding at the end the following:

“(B) COMMENT ON PANEL AND APPELLATE BODY REPORTS.—In any case in which a panel or Appellate Body report is adopted in favor of the United States pursuant to the dispute settlement proceedings of the World Trade Organization, the Trade Representative shall within 90 days of the adoption of the panel report (or, if the panel report is appealed, within 90 days of the adoption of the Appellate Body report)—

“(i) make publicly available information on—

“(I) the report,

“(II) the plans of the foreign country against which the report is issued to implement the recommendations contained in the report, and

“(III) the time by which the foreign country has agreed to implement the recommendations;

“(ii) seek advice from the appropriate committee pursuant to section 135; and

“(iii) seek advice from the Committee on Finance of the Senate and the Com-

mittee on Ways and Means of the House
of Representatives and, where appropriate,
from the Committee on Agriculture, Nutri-
tion, and Forestry of the Senate and the
Committee on Agriculture of the House of
Representatives.

“(C) COMMENTS WHEN REASONABLE PE-
RIOD BEYOND 220 DAYS.—If, pursuant to para-
graph 3 of article 21 of the Understanding On
Rules And Procedures Governing the Settle-
ment of Disputes of the World Trade Organiza-
tion, it is agreed that a foreign country de-
scribed in subparagraph (B) shall have a time
period of more than 220 days to implement the
recommendations of a report described in sub-
paragraph (B), the Trade Representative shall
90 days before the expiration of the agreed time
period—

“(i) provide notice and give interested
parties a 30-day period to comment
regarding—

“(I) the progress of the foreign
country in implementing the rec-
ommendations;

1 “(II) any action (including the
2 implementation of any retaliation list)
3 that should be taken if the rec-
4 ommendations are not being imple-
5 mented or if the foreign country’s
6 plan for implementing the rec-
7 ommendations is inconsistent with the
8 report; and

9 “(III) any other information that
10 may be relevant to the Trade Rep-
11 resentative in monitoring the foreign
12 country’s compliance with the rec-
13 ommendations;

14 “(ii) submit a report to Congress re-
15 garding the progress made by the foreign
16 country in implementing the recommenda-
17 tions and any action the Trade Represent-
18 ative is considering if the recommendations
19 are not implemented or if the plan for im-
20 plementing the recommendations is incon-
21 sistent with the report; and

22 “(iii) seek advice from the appropriate
23 committee pursuant to section 135.

24 “(D) COMMENTS AFTER AGREED TIME PE-
25 RIOD EXPIRES.—In the case of a panel or Ap-

1 pellate Body report described in subparagraph
2 (B), the Trade Representative shall, 60 days
3 after the expiration of the period of time agreed
4 to for implementation pursuant to article 21 of
5 the Understanding On Rules And Procedures
6 Governing the Settlement of Disputes of the
7 World Trade Organization—

8 “(i) provide notice and give interested
9 parties a 40-day period to comment re-
10 garding implementation by the foreign
11 country of the recommendations contained
12 in the report; and

13 “(ii) 20 days after the close of the
14 comment period described in clause (i), re-
15 port to Congress regarding—

16 “(I) the foreign country’s imple-
17 mentation of the recommendations;
18 and

19 “(II) if the foreign country is not
20 implementing the recommendations,
21 the actions the Trade Representative
22 intends to take under paragraph
23 (1).”.

1 **SEC. 2. UNITED STATES OBJECTIVES WITH RESPECT TO**
 2 **WTO DISPUTE SETTLEMENTS.**

3 (a) IN GENERAL.—In any multilateral review of the
 4 Understanding of Rules and Procedures Covering the Set-
 5 tlement of Disputes, the United States Trade Representa-
 6 tive shall seek the adoption of procedures that would re-
 7 quire any WTO member against whom a panel or Appel-
 8 late Body has issued a report—

9 (1) to submit to all interested parties the mem-
 10 ber’s plans for implementing the recommendations
 11 contained in the panel report (or Appellate Body re-
 12 port, whichever is applicable) not later than 6
 13 months before the end of the reasonable period al-
 14 lowed for the implementation; and

15 (2) to consult with all interested parties regard-
 16 ing the member’s plans for implementing the rec-
 17 ommendations so that any request for modification
 18 of the recommendations can be considered before im-
 19 plementation and before the end of the reasonable
 20 period.

21 (b) DEFINITIONS.—In this section:

22 (1) REASONABLE PERIOD.—The term “reason-
 23 able period” has the meaning the term has when
 24 used in the Understanding of Rules and Procedures
 25 Covering the Settlement of Disputes.

1 (2) UNDERSTANDING OF RULES AND PROCE-
 2 DURES COVERING THE SETTLEMENT OF DIS-
 3 PUTES.—The term “Understanding of Rules and
 4 Procedures Covering the Settlement of Disputes”
 5 means the Understanding of Rules and Procedures
 6 Covering the Settlement of Disputes adopted as part
 7 of the WTO Agreement.

8 (3) URUGUAY ROUND AGREEMENTS.—The term
 9 “Uruguay Round Agreements” has the meaning
 10 given such term in section 2(7) of the Uruguay
 11 Round Agreements Act (19 U.S.C. 3501(7)).

12 (4) WORLD TRADE ORGANIZATION.—The term
 13 “World Trade Organization” means the organization
 14 established pursuant to the WTO Agreement.

15 (5) WTO AGREEMENT.—The term “WTO
 16 Agreement” means the Agreement Establishing The
 17 World Trade Organization entered into on April 15,
 18 1994.

19 (6) WTO AND WTO MEMBER.—The terms
 20 “WTO” and “WTO member” have the meanings
 21 given those terms in section 2 of the Uruguay
 22 Round Agreements Act (19 U.S.C. 3501).

