

108TH CONGRESS
1ST SESSION

S. 1911

To amend the provisions of title III of the Trade Act of 1974 relating to violations of the TRIPS Agreement, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 20, 2003

Mr. HATCH (for himself and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the provisions of title III of the Trade Act of 1974 relating to violations of the TRIPS Agreement, 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. USTR DETERMINATIONS IN TRIPS AGREEMENT**
4 **INVESTIGATIONS.**

5 (a) IN GENERAL.—Section 304(a)(2)(A) of the Trade
6 Act of 1974 (19 U.S.C. 2414(a)(2)(A)) is amended by in-
7 serting after “agreement,” the following: “except an inves-
8 tigation initiated pursuant to section 302(b)(2)(A) involv-
9 ing rights under the Agreement on Trade-Related Aspects
10 of Intellectual Property Rights (defined in section

1 101(d)(15) of the Uruguay Round Agreements Act) or the
 2 GATT 1994 (referred to in section 101(d)(1) of such Act)
 3 relating to products subject to intellectual property protec-
 4 tion,”.

5 (b) TIMEFRAME FOR TRIPS AGREEMENT DETER-
 6 MINATIONS.—Section 304(a)(3)(A) of the Trade Act of
 7 1974 is amended to read as follows:

8 “(A) If an investigation is initiated under this
 9 chapter by reason of section 302(b)(2) and—

10 “(i) the Trade Representative considers
 11 that rights under the Agreement on Trade-Re-
 12 lated Aspects of Intellectual Property Rights or
 13 the GATT 1994 relating to products subject to
 14 intellectual property protection are involved, the
 15 Trade Representative shall make the determina-
 16 tion required under paragraph (1) not later
 17 than 30 days after the date on which the dis-
 18 pute settlement procedure is concluded; or

19 “(ii) the Trade Representative does not
 20 consider that a trade agreement, including the
 21 Agreement on Trade-Related Aspects of Intel-
 22 lectual Property Rights), is involved or does not
 23 make a determination described in subpara-
 24 graph (B) with respect to such investigation,
 25 the Trade Representative shall make the deter-

1 minations required under paragraph (1) with
 2 respect to such investigation by no later than
 3 the date that is 6 months after the date on
 4 which such investigation is initiated.”.

5 (c) CONFORMING AMENDMENT.—Section
 6 305(a)(2)(B) of the Trade Act of 1974 is amended by
 7 striking “section 304(a)(3)(A)” and inserting “section
 8 304(a)(3)(A)(ii)”.

9 **SEC. 2. PETITIONS FOR REVIEW UNDER ATPA AND CBERA.**

10 (a) ATPA.—Section 203 of the Andean Trade Pref-
 11 erence Act (19 U.S.C. 3202) is amended by adding at the
 12 end the following new subsection:

13 “(g) PETITIONS FOR REVIEW.—The United States
 14 Trade Representative shall ensure a timely review and dis-
 15 position of requests received from an interested party that
 16 the President reconsider the status of a country as a bene-
 17 ficiary country under this Act.”.

18 (b) CBI.—Section 212 of the Caribbean Basin Eco-
 19 nomic Recovery Act (19 U.S.C. 2702) is amended by add-
 20 ing at the end the following new subsection:

21 “(g) PETITIONS FOR REVIEW.—The United States
 22 Trade Representative shall ensure a timely review and dis-
 23 position of requests received from an interested party that
 24 the President reconsider the status of a country as a bene-
 25 ficiary country under this Act.”.

1 **SEC. 3. ADEQUATE AND EFFECTIVE PROTECTION OF IN-**
 2 **TELLECTUAL PROPERTY RIGHTS UNDER GSP.**

3 Section 502(c) of the Trade Act of 1974 (19 U.S.C.
 4 2462(c)) is amended by striking the semicolon at the end
 5 of paragraph (5) and adding the following: “notwith-
 6 standing the fact that the foreign country may be in com-
 7 pliance with the specific obligations of the Agreement on
 8 Trade-Related Aspects of Intellectual Property Rights re-
 9 ferred to in section 101(d)(15) of the Uruguay Round
 10 Agreements Act;”.

11 **SEC. 4. ADEQUATE AND EFFECTIVE PROTECTION OF IN-**
 12 **TELLECTUAL PROPERTY RIGHTS UNDER CBI.**

13 (a) IN GENERAL.—Section 212(c) of the Caribbean
 14 Basin Economic Recovery Act (19 U.S.C. 2702(c)) is
 15 amended by striking the semicolon at the end of para-
 16 graph (9) and adding the following: “notwithstanding the
 17 fact that the foreign country may be in compliance with
 18 the specific obligations of the Agreement on Trade-Related
 19 Aspects of Intellectual Property Rights referred to in sec-
 20 tion 101(d)(15) of the Uruguay Round Agreements Act;”.

21 (b) CBTPA BENEFICIARY COUNTRY.—Section
 22 213(b)(5)(B)(ii) of the Caribbean Basin Economic Recov-
 23 ery Act (19 U.S.C. 2703(b)(5)(B)(ii)) is amended to read
 24 as follows:

25 “(ii) The extent to which the country
 26 provides adequate and effective protection

of intellectual property rights notwithstanding the fact that the foreign country may be in compliance with the specific obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act;”.

SEC. 5. ADEQUATE AND EFFECTIVE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS UNDER THE ATPA.

(a) IN GENERAL.—Section 203(d) of the Andean Trade Preference Act (19 U.S.C. 3202(d)) is amended by striking the semicolon at the end of paragraph (9) and adding the following: “notwithstanding the fact that the foreign country may be in compliance with the specific obligations of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act;”.

(b) ATPDEA BENEFICIARY COUNTRY.—Section 204(b)(6)(B)(ii) of the Andean Trade Preference Act (19 U.S.C. 3203(b)(6)(B)(ii)) is amended to read as follows:

“(ii) The extent to which the country provides adequate and effective protection of intellectual property rights notwithstanding the fact that the foreign country

1 may be in compliance with the specific ob-
2 ligations of the Agreement on Trade-Re-
3 lated Aspects of Intellectual Property
4 Rights referred to in section 101(d)(15) of
5 the Uruguay Round Agreements Act.”.

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