

110TH CONGRESS  
2D SESSION

# H. R. 6148

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 HOUSE OF REPRESENTATIVES

MAY 22, 2008

Mr. DEFAZIO (for himself, Mr. TAYLOR, Ms. KAPTUR, Mr. MELANCON, Mr. COSTELLO, Mr. LEWIS of Georgia, Mr. MARSHALL, Mr. MICHAUD, Mr. HINCHEY, Mrs. BOYDA of Kansas, Ms. WOOLSEY, and Mr. HARE) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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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”.

1 **SEC. 2. LIMITATIONS ON BILLS IMPLEMENTING TRADE**  
2 **AGREEMENTS.**

3 (a) IN GENERAL.—Notwithstanding section 151 of  
4 the Trade Act of 1974 (19 U.S.C. 2191) or any other pro-  
5 vision of law, any bill implementing a trade agreement be-  
6 tween the United States and another country shall be sub-  
7 ject to a point of order pursuant to subsection (c) unless  
8 the bill—

9 (1) is accompanied by a statement of the bench-  
10 marks described in subsection (b)(1) and that state-  
11 ment is approved as part of the implementing bill;  
12 and

13 (2) contains the reporting provisions described  
14 in subsection (b)(2).

15 (b) BENCHMARKS AND REPORTING PROVISIONS.—

16 (1) BENCHMARKS.—

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

1 (B) DESCRIPTION OF BENCHMARKS.—The  
2 benchmarks described in this subparagraph are  
3 as follows:

4 (i) An estimate of the number of new  
5 jobs that will be created, the number of ex-  
6 isting jobs that will be lost, and the ex-  
7 pected net effect on job creation in the  
8 United States as a result of the agreement.  
9 The estimate shall include the number and  
10 type of the new jobs that will be created  
11 and lost.

12 (ii) An assessment and quantitative  
13 analysis of the extent to which the agree-  
14 ment will result in an improvement in  
15 wages for workers in the United States.

16 (iii) An assessment and quantitative  
17 analysis of how each country that is a  
18 party to the agreement is implementing  
19 and enforcing the labor and environmental  
20 standards that are part of the agreement.

21 (iv) A quantitative analysis of the ex-  
22 tent to which the agreement will result in  
23 an increase in the access by United States  
24 businesses to the market of each country  
25 that is a party to the agreement, particu-

1           larly those sectors identified by the United  
2           States Trade Representative as of special  
3           importance with respect to the agreement.

4           (2) REPORTING PROVISIONS.—The reporting  
5           provisions described in this subsection are that each  
6           bill implementing a trade agreement shall contain a  
7           requirement that not later than 5 years after the  
8           date the agreement enters into force with respect to  
9           the United States, and every 5 years thereafter, the  
10          International Trade Commission shall submit to  
11          Congress a report that provides an assessment and  
12          quantitative analysis of whether and the extent to  
13          which the trade agreement has resulted in meeting  
14          the benchmarks and predictions described in para-  
15          graph (1).

16          (c) POINT OF ORDER.—

17           (1) IN SENATE.—The Senate shall cease consid-  
18          eration of a bill to implement a trade agreement,  
19          if—

20           (A) a point of order is made by any Sen-  
21          ator against any bill implementing a trade  
22          agreement that is not accompanied by a state-  
23          ment regarding the benchmarks to be achieved  
24          by the agreement or does not contain the re-

1           porting provisions regarding the benchmarks  
2           described in subsection (b); and

3                   (B) the point of order is sustained by the  
4           Presiding Officer.

5           (2) IN HOUSE.—

6                   (A) IN GENERAL.—It shall not be in order  
7           in the House of Representatives to consider a  
8           bill to implement a trade agreement if the bill  
9           is not accompanied by a statement regarding  
10          the benchmarks to be achieved by the agree-  
11          ment or does not contain the reporting provi-  
12          sions regarding the benchmarks described in  
13          subsection (b).

14                   (B) SUPERMAJORITY WAIVER.—This para-  
15          graph may be waived or suspended in the  
16          House of Representatives only by an affirmative  
17          vote of two-thirds of the Members, duly chosen  
18          and sworn.

19          (d) WITHDRAWAL OF APPROVAL.—

20                   (1) IN GENERAL.—If a report described in sub-  
21          section (b) indicates that the benchmarks and pre-  
22          dictions made in connection with a trade agreement  
23          are not being met—

1 (A) the approval of Congress, provided in  
2 a bill to implement the trade agreement, shall  
3 cease to be effective, and

4 (B) not later than 180 days after the date  
5 on which Congress receives the report, the  
6 President shall provide written notice of with-  
7 drawal of the United States from the agree-  
8 ment,

9 unless a joint resolution described in subsection (e)  
10 is enacted into law pursuant to the provisions of  
11 subsection (e) and paragraph (2).

12 (2) PROCEDURAL PROVISIONS.—

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

16 (i) Congress adopts and transmits the  
17 joint resolution to the President before the  
18 end of the 180-day period (excluding any  
19 day described in section 154(b) of the  
20 Trade Act of 1974 (19 U.S.C. 2194(b)),  
21 beginning on the date on which Congress  
22 receives a report described in subsection  
23 (b); and

24 (ii) if the President vetoes the joint  
25 resolution, each House of Congress votes

1 to override that veto on or before the later  
2 of the last day of the 180-day period re-  
3 ferred to in clause (i) or the last day of the  
4 15-day period (excluding any day described  
5 in section 154(b) of the Trade Act of  
6 1974) beginning on the date on which Con-  
7 gress receives the veto message from the  
8 President.

9 (B) INTRODUCTION.—A joint resolution to  
10 which this section applies may be introduced at  
11 any time on or after the date on which the  
12 International Trade Commission transmits to  
13 Congress a report described in subsection (b),  
14 and before the end of the 180-day period re-  
15 ferred to in subparagraph (A)(i).

16 (e) JOINT RESOLUTIONS.—

17 (1) JOINT RESOLUTIONS.—For purposes of this  
18 section, the term “joint resolution” means only a  
19 joint resolution of the 2 Houses of Congress, the  
20 matter after the resolving clause of which is as fol-  
21 lows: “That Congress waives the requirements of  
22 section 2(d)(1) of the Trade Agreement Benchmarks  
23 and Accountability Act with respect to the  
24 \_\_\_\_\_ Agreement.”, with the blank space

1 being filled with the title of the applicable agree-  
2 ment.

3 (2) PROCEDURES.—

4 (A) INTRODUCTION AND REFERRAL.—

5 (i) HOUSE OF REPRESENTATIVES.—

6 Joint Resolutions in the House of Rep-  
7 resentatives—

8 (I) may be introduced by any  
9 Member of the House;

10 (II) shall be referred to the Com-  
11 mittee on Ways and Means and, in  
12 addition, to the Committee on Rules;  
13 and

14 (III) may not be amended by ei-  
15 ther Committee.

16 (ii) SENATE.—Joint Resolutions in  
17 the Senate—

18 (I) may be introduced by any  
19 Member of the Senate;

20 (II) shall be referred to the Com-  
21 mittee on Finance; and

22 (III) may not be amended.

23 (B) CONSIDERATION BY COMMITTEES.—

24 (i) HOUSE OF REPRESENTATIVES.—It  
25 is not in order for the House of Represent-

1           atives to consider any resolution that is not  
2           reported by the Committee on Ways and  
3           Means and, in addition, by the Committee  
4           on Rules.

5           (ii) SENATE.—It is not in order for  
6           the Senate to consider any resolution that  
7           is not reported by the Committee on Fi-  
8           nance.

9           (C) APPLICATION OF OTHER PROVI-  
10          SIONS.—The provisions of section 152 (c), (d),  
11          and (e) of the Trade Act of 1974 (19 U.S.C.  
12          2192 (c), (d), and (e)) (relating to discharge of  
13          committees and floor consideration of certain  
14          resolutions in the House and Senate) shall  
15          apply to joint resolutions under this section to  
16          the same extent as such provisions apply to res-  
17          olutions under such section.

18          (3) RULES OF HOUSE OF REPRESENTATIVES  
19          AND SENATE.—This subsection is enacted by Con-  
20          gress—

21                (A) as an exercise of the rulemaking power  
22                of the House of Representatives and the Sen-  
23                ate, respectively, and as such is deemed a part  
24                of the rules of each House, respectively, and  
25                such procedures supersede other rules only to

1 the extent that they are inconsistent with such  
2 other rules; and

3 (B) with the full recognition of the con-  
4 stitutional right of either House to change the  
5 rules (so far as relating to the procedures of  
6 that House) at any time, in the same manner  
7 and to the same extent as any other rule of that  
8 House.

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