

A trade plan for the new Congress

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Because the 105th Congress failed to pass a major trade bill, it now rests with the 106th Congress to fill the vacuum. Statutory changes are urgently needed; Congress has not enacted an omnibus trade bill since 1988, and the problems are piling up.

Two issues that will corral most of the headlines — linking trade and labor rights and renewing fast-track negotiating authority — will certainly be on the agenda.

But there are several other trade problems that, because they are complex and don't get much media attention, may fall by the wayside. The Labor/Industry Coalition for International Trade would like to make sure that they are not forgotten.

One example is Section 301 of the Trade Act of 1974, which was created to empower the U.S. trade representatives to act against foreign countries found to be unreasonably closing their markets to U.S. products and services.

Section 301's effectiveness has been severely curtailed by the World Trade Organization dispute settlement system, which now steers almost all trade disputes to Geneva for arbitration.

In decisions rendered to date, WTO dispute panels have been particularly unwilling to open trade channels blocked by private monopolies and cartels.

While the United States is in theory free to bypass the WTO and attack such barriers directly, the remedial measures available to the U.S. trade representative under current law are vulnerable to WTO-sanctioned retaliation.

A 1999 Trade Act should amend Section 301 to strengthen the administration's authority to act against unfair foreign-trade practices — whether the practices are private, governmental, or some combination of the two. One possible remedy would be fines against private companies that participate in, or benefit from, unjustifiable restraints of international trade.

While dealing with the WTO, the 1999 Trade Act should also establish a blue-ribbon judicial commission to review WTO panel decisions and determine whether they wrongly infringe on the rights of the United States, ignore appropriate procedures, or the like.

This surveillance mechanism that the administration in 1994 promised to support is urgently needed and should not be further delayed. Regular U.S.-government review of WTO panel decisions as they issue forth in Geneva is one of several necessary means to help Congress ensure that America's membership in the WTO does not result in undermining our industrial base.

Another category of needed changes involves our laws on unfairly traded imports, the anti-dumping and countervailing-duty laws. These currently face a widespread and well-organized

attack in Geneva and elsewhere, in part because they have been reasonably effective in establishing a level playing field for U.S. manufacturers and farmers.

A 1999 Trade Act should, for starters, categorically instruct U.S. trade negotiators to reject any international agreement that would require weakening these important trade laws.

The act should also include several WTO-consistent technical changes to make the laws more effective in identifying and offsetting unfair practices. Finally, the Act should ensure that anti-dumping and countervailing duties collected by the U.S. governments are used to fund re-investment and re-training for the injured U.S. companies and their workers.

Section 201 of the Trade Act of 1974 is our safeguards clause, offering industries that are seriously harmed by import surges a period of time to adapt to new market conditions.

Under current law, however, obtaining relief under section 201 is unnecessarily difficult, the U.S. threshold for demonstrating injury is higher than the one in the WTO Safeguards Agreement. The 1999 Trade Act should harmonize section 201 with the WTO standard.

Other needed improvements involve the National Trade Estimate of foreign barriers, which is published and transmitted to Congress each year by the trade representative. Congress should mandate an expanded NTE that:

- Identifies those foreign barriers that violate existing agreements.
- Includes private sector (company and labor union) evaluations of remedial actions taken by the administration.
- And notes foreign governments' violations of international-recognized labor standards.

Finally, the 1999 Trade Act should authorize the appropriation of funds to enable key agencies, such as the Office of the U.S. trade representative and the Department of Commerce, to enforce fully our trade laws and the various agreements we have negotiated with other countries.

With these elements, a 1999 Trade Act could be landmark legislation with benefits that will last for many years — stiffening the existing deterrent against subsidies, dumping and other unfair trade practices, and at the same time making it harder for foreign companies and governments to block their own markets to our exports.

In this way, the bill could be a significant step forward in making sure that open trade does in fact lead to a stronger industrial base and a healthier U.S. economy.