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U.S. trade legislation proposals
100th Congress : comparative
summary of House and Senate Trade
Reform Bills, applicable cur
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Revised

U.S. TRADE LEGISLATION PROPOSALS
100th CONGRESS

Comparative summary of House and Senate Trade Reform Bills, applicable current law with outline of Administration and Canadian positions.

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SUBJECT	CURRENT LAW	HOUSE	SENATE	ADMIN POSITION	CDN POSITION
<p>I. <u>NEGOTIATING OBJECTIVES/ AUTHORITY</u></p>		<p>"Trade and International Economic Policy Reform Act of 1987" (HR3) [passed April 30, 1987]</p>	<p>"Omnibus Trade and Competitiveness Act of 1987" / [H.R.3(S.1420)] [passed July 21, 1987]</p>		
<p>i. <u>Objectives</u></p>					
<p>A. Overall & Sectoral</p>	<p>More open/equitable market access; harmonization, reduction or elimination of trade distorting practices (agriculture to extent possible); reciprocity of competitive opportunities.</p>	<p>More open/equitable/reciprocal market access; harmonization, reduction or elimination of trade distorting measures; more effective system of international trading disciplines/procedures; specific for agriculture on expedited basis; specific for tariff and NTBs.</p>	<p>More open/fair/equitable market access; reduction elimination of trade distorting practices; balance overall between benefits and concessions; better management of global economy; specific for agriculture including ref to CAP and Japan.</p>	<p>Generally appropriate authority; including proclamation authority for tariffs is top priority.</p>	<p>Generally satisfactory. Admin on side. Have urged broad and flexible authority as essential to Uruguay Round.</p>
<p>B. Services, Investment & High Technology</p>	<p>Reduce barriers and other distortions to intl trade in services and foreign direct investment. Development of new rules including dispute settlement procedures.</p>	<p>Essentially same as current law.</p>	<p>Objectives explicitly carried forward from current into new law.</p>		
	<p>Three specific objectives for high tech.</p>	<p>No provisions as in current law except for access where equitable access denied to US persons.</p>	<p>New rules similar to HR 3 to seek equitable access for US persons to foreign developed technology.</p>		
<p>C. Access to Supplier</p>	<p>Fair and equitable access at reasonable prices where US does not have or cannot easily develop domestic productive capacity.</p>	<p>No provision.</p>	<p>No provision.</p>		

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D. Safeguards	New international rules to permit use of temporary measures to ease adjustment to changes in competitive conditions.	"Trade and International Economic Policy Reform Act of 1987"(HR3) [passed April 30, 1987]	"Omnibus Trade and Competitiveness Act of 1987"/ [H.R.3(S.1420)] [passed July 21, 1987]		
E. GATT Reform	12 specific objectives to improve existing agreements: (I) <u>Voting</u> - decision making procedures; (II) <u>Safeguards</u> - (III) <u>New Subjects</u> - not currently covered; (IV) <u>Fair Labour Standards</u> - (V) <u>Taxes</u> - reduces disadvantages for countries relying basically on direct taxes for revenue; (VI) <u>Import Surcharges</u> - preferred means to handle BOP's deficits; (VII) <u>Access to Supplies</u> - Improved rules on export controls, etc.; (VIII) <u>Access to Supplies</u> - procedures to deal with denial of fair and equitable access; (IX) <u>Dispute Resolution</u> - (X) <u>Reciprocity</u> - (XI) <u>Subsidies</u> - clarification of export subsidies; (XII) Establishment of particular <u>Sectoral agreements</u> .	- Make full use of <u>Uruguay Round</u> to achieve range of GATT reforms and improvements to international trading system to include, inter alia, market opportunities for US products and services. - More effective and expeditious <u>dispute settlement</u> mechanisms to ensure better enforcement of US rights. - deterrence and greater discipline over <u>unfair trade practices</u> , including dumping, subsidization, targeting.	No provisions. (See also E below) <u>Dispute Resolution</u> - revised decision making to ensure more timely and decisive outcomes. Standing roster of non gov't experts. Ministerial level mechanism for monitoring and consultation. <u>Safeguards</u> - improved surveillance, more non discriminatory, time limited and linked to adjustment efforts. Similar rules for <u>primary and non-primary</u> products relating to dumping and subsidies. Inclusion of " <u>new</u> " subjects e.g. services, investment performance requirements, intellectual property rights, expanded entity coverage under Procurement Code.		

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"Trade and International Economic
Policy Reform Act of 1987" (HR3)
(passed April 30, 1987)

SENATE

"Omnibus Trade and Competitiveness Act of 1987"/
[H.R.3(S.1420)]
(passed July 21, 1987)

ADMIN POSITION

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Not applicable.

F. New Objectives not
covered by Current Law

Intellectual Property -
establishment of foreign laws
that afford adequate protection -
better international rules.

Worker Rights - address in GATT
context.

Developing Countries - graduation
of NICS etc.

Current Account Surpluses - rules
to engender greater
responsibility by countries with
surpluses to make policy changes.

Trade and Monetary Coordination -
mechanisms to foster.

Accelerated Concessions by
countries with persistent
current account surpluses.

- Improving transparency

Border Tax Adjustments -
similar to (V) in Current
Law

No provisions.

Worker Rights - minimum
standards to provide
greater international
discipline over abuses.

Developing Countries -
reduction of
non-reciprocal trade
benefits to more advanced
LDC's.

Surplus Trading Countries -
revision of GATT BOPs rules
to address excessive
imbalances.

Coordination with Monetary
Authorities - increased
coordination between GATT
and IMF (& World Bank).

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<u>2. Authority</u>					
A. General					
(i) <u>Multilateral</u>	Distinguishes between multilateral trade agreements on <u>tariffs</u> and all others (<u>non-tariff agreements</u>).	Maintains distinction.	No distinction.		
	<u>Non-Tariff Barriers</u> - two types effective until Jan 3/88.	<u>Non-Tariff Barriers</u> - extends existing authority through Jan 3/91 with possible further extension to Jan 3/93 following USTR report and request to Cttees on Ways and Means and Finance and neither disapproves within 60 days.	<u>Tariff and Non-Tariff Agreements</u> - authority through Jan 3/92 with extension possible if neither House nor Senate disapproves before July 1, 1991. (eg, Progress being achieved in Uruguay Round.) <u>"Reverse Fast Track"</u> - authority terminated if both House and Senate pass resolution of disapproval with 60 days of each other.	Senate bill deficient on proclamation authority - will fight for it in Conference.	Concurs with Administration. Implications for Uruguay Round.
	b) GATT revisions - Achievement of reform consistent with objectives of law.				
	<u>Tariffs</u> - authority expired in 1980 and was subject to certain limitations i.e. 40% tax reduction on tariffs over 5% ad val, no increase of duties beyond 50% with staging provisions not to extend beyond 10 years.	<u>Tariffs</u> - reestablishes authority through Jan 3/93 subject to 60% reduction if industry concerned would be significantly adversely affected with 10 years staging requirement for such sensitive items.	<u>Tariffs</u> - Reductions limited to 50% of existing rates except where below 5%. President to take note of import sensitive products/sectors and act appropriately. Congressional approval required before implementation or proclamation.		Could endanger progress in Uruguay Round.

"Trade and International Economic Policy Reform Act of 1987" (HR3) [passed April 30, 1987]

"Omnibus Trade and Competitiveness Act of 1987" [H.R.3(S.1420)] [passed July 21, 1987]

No Counterpart.

State Trading and Unfair Concessions Requirements - enforcing existing rules against non-commercial state trading.

Maintains distinction.

No distinction.

Non-Tariff Barriers - extends existing authority through Jan 3/91 with possible further extension to Jan 3/93 following USTR report and request to Cttees on Ways and Means and Finance and neither disapproves within 60 days.

Tariff and Non-Tariff Agreements - authority through Jan 3/92 with extension possible if neither House nor Senate disapproves before July 1, 1991. (eg, Progress being achieved in Uruguay Round.)
"Reverse Fast Track" - authority terminated if both House and Senate pass resolution of disapproval with 60 days of each other.

Senate bill deficient on proclamation authority - will fight for it in Conference.

Concurs with Administration. Implications for Uruguay Round.

b) GATT revisions - Achievement of reform consistent with objectives of law.

Tariffs - authority expired in 1980 and was subject to certain limitations i.e. 40% tax reduction on tariffs over 5% ad val, no increase of duties beyond 50% with staging provisions not to extend beyond 10 years.

Tariffs - reestablishes authority through Jan 3/93 subject to 60% reduction if industry concerned would be significantly adversely affected with 10 years staging requirement for such sensitive items.

Tariffs - Reductions limited to 50% of existing rates except where below 5%. President to take note of import sensitive products/sectors and act appropriately. Congressional approval required before implementation or proclamation.

Could endanger progress in Uruguay Round.

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(II) <u>Bilateral</u>	Of one type, in effect until Jan 3, /88 for both tariff and non-tariff agreements subject to:	"Trade and International Economic Policy Reform Act of 1987"(HR3) (passed April 30, 1987)	"Omnibus Trade and Competitiveness Act of 1987"/ (H.R.3(S.1420)) (passed July 21, 1987)		
	a) Cttee pre-approval-foreign country requests, President advises Ways and Means and Finance Cttees and neither disapproves within 60 days; and	Extends existing authority, with all conditions to Jan 3/98 <u>except for negs underway as of Jan 1/87 (Canada)</u> , with following additional limitations:	Open ended authority; without time limits, subject to limitations in current law and limitation applicable to FTA's in force before Jan 1/87 (i.e. same as in HR 3).		
	b) Conditional MFN application.	a) Non-applicability of conflicting provisions of this act with bilateral FTA's in force before Jan 1/87 (Israel).			
		b) USTR to review, within 1 year of enactment, bilateral trade relationships having best potential for FTA and consult with Cttees on Ways and Means and Finance.			
(III) <u>Special</u>					
a) High Tech	President may enter into multilateral or bilateral Agrmts to achieve objectives of 1984 amendments in high tech area.	No provision.	No provision.		
b) Reciprocal Duty Reductions with Canada	No specific provision.	5-year authority for President to enter into and proclaim tariff agreements on specific TSUS items with Canada in return for tariff concessions of equivalent value from Canada.	No provision.		Supports.

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c) Currency Exchange Rates	No provision.	"Trade and International Economic Policy Reform Act of 1987" (HR3) [passed April 30, 1987]	"Omnibus Trade and Competitiveness Act of 1987" / [H.R. 3 (S. 1420)] [passed July 21, 1987]	Admin. opposes, particularly House proposals, as possibly leading to exchange rate instability.	Canada would oppose such intervention.
d) Harmonized System	No provision.	Secy of Treasury required to take various steps in cases involving currency manipulation by excessive surplus countries which could lead to imposition of exchange rate equilization tariffs.	Presidential authority to enter into agreement to implement Intl Conv on Harmonized Commodity Description and Coding System.	House and Senate to provide expedited consideration of implementing bill.	Supports need for authority.
e) US-EC Citrus & Pasta	No provision.	Implementation authority for Feb 24/87 agreement.	House and Senate to provide expedited consideration of implementing bill.	Supports need for authority.	Supports.
f) Wine Trade Barriers	USTR to consult with major wine trading countries to reduce barriers and report to Ways & Means and Finance Cttees.	Implementation authority for Feb 24/87 agreement.	Idem but with additional authority to impose new tariffs on pasta imports if EC fails to eliminate or offset pasta subsidies by July 1/87.	Requirement for President to update report.	Requirement for President to update report.
g) North American Trade Expansion Area.	No provision.	No provision.	Authorizes negotiations with Canada, Mexico and CBI countries to eliminate tariffs and trade barriers.		

<u>SUBJECT</u>	<u>CURRENT LAW</u>	<u>HOUSE</u>	<u>SENATE</u>	<u>ADMIN POSITION</u>	<u>CDN POSITION</u>
		"Trade and International Economic Policy Reform Act of 1987" (HR3) [passed April 30, 1987]	"Omnibus Trade and Competitiveness Act of 1987" / [H.R. 3 (S. 1420)] [passed July 21, 1987]		

3. Prerequisites/Consultations/
Implementing Procedures

[Note: This summary does not outline in detail, the provisions in current law or in the House and Senate Bills regarding mandatory consultations, implementing procedures etc. given the length and complexity of same. In general, the legislative proposals build on and expand current requirements such that the Administration would be required to consult more regularly with Congress, ITC and the private sector throughout the negotiating process leading to conclusion and implementation of trade agreements. Thus the Scope for Administration (Presidential) discretion would be somewhat circumscribed from current practice. "Fast Track" approval procedures would be available for both multilateral as well as bilateral tariff and non-tariff agreements, although the latter would require "pre approval" (i.e. prior notification of intent to enter negotiations and 60-day period within which Ways and Means Ctte and/or Finance Ctte may disapprove). Implementing bills under fast track procedures preclude amendments by either House. Admin not happy with Senate version but won't oppose as wording is sufficiently flexible to provide out in cases of refusal.

Prerequisites for entry into trade agreements are also similar to current law although there are some differences between the House and Senate proposals which will presumably be worked out in Conference. Generally, agreements would be consistent with negotiating objectives, be enforceable, be complementary and reinforcing of existing agreements, provide for the reciprocal exchange of obligations, etc. The Senate bill also specifically requires, in respect of state trading enterprises that agreements (e.g. Accession to GATT) provide that their purchases and sales in international trade be in accordance with commercial considerations and afford US firms opportunity to compete for same.]

A. Bilateral F.T.

Negotiations with Canada

Fast track authority expires Jan 3/88. 90 day notification to Congress required by Oct 3/87.

Bilateral authority extended to Jan 3/93 except for negotiations underway as of Jan 1/87. Thus, if negs not completed, pre-approval under new authority required.

If negotiations not completed in time to qualify under current fast track authority all conditions for bilateral tariff agreements would need to be met after enactment of bill.

Concern with Senate wording that existing authority not be negated.

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HOUSE

SENATE

"Trade and International Economic
Policy Reform Act of 1987"(HR3)
(passed April 30, 1987)

"Omnibus Trade and Compe-
titiveness Act of 1987"/
(H.R.3(S.1420))
(passed July 21, 1987)

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ADMIN POSITION

CDN POSITION

II TRADE POLICY FORMULATION
/AGENCY FUNCTIONS

1. Trade Policy Agenda

USTR to submit an annual report
on trade policy objectives,
priorities, plans to Congress;
Improved private sector
consultations. "New Advisory
Cttee for Trade Policy and
Negotiations."

2. Trade Competitiveness
Impact Statements

No provision.

OMB to analyze impact of
President's proposed budget on
Intl competitiveness of US
business and on BOPs position.
House and Senate to do likewise
on Congress' annual concurrent
resolution on budget. Heads of
Depts/Agencies Regional to table
Competitiveness Impact Statements
be proposed legislation.

Head of Fed Depts/Agencies
to study impact of major
actions on US Intl trade,
and ability of US firms to
compete in foreign markets
except on actions relating
to trading with the Enemy
Act or under Export
Administration Act.

3. Interagency Trade
Organization

Trade Policy Cttee composed of USTR
and Heads of Depts/other officers
designated by President.

Amends Trade Policy Cttee in
terms of functions and
composition. Membership USTR &
Secy's of Commerce, State,
Treasury, Labour, Agriculture &
and others invited by USTR.
Req'd to take advice of
Congressional advisors and
private sector advisory cttees.
Sense of Congress - principal
interagency forum in Exec Branch
on Intl Trade Policy matters.

Repeals current law and
replaces Trade Policy Cttee
with National Trade Council
composed of Pres, V.P. and
Secy's of State, Treasury,
Defense, Agric, Commerce,
Labour and USTR. Advisory
functions.

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4. <u>National Trade Data Committee</u>	No provision.	"Trade and International Economic Policy Reform Act of 1987" (HR3) [passed April 30, 1987]	"Omnibus Trade and Competitiveness Act of 1987" / [H.R.3(S.1420)] [passed July 21, 1987]	Supports establishment of National Trade Data Information system for exporters.	
5. <u>USTR</u>					
A. Change In Functions	Role & functions outlined.	More detailed statement of authorities and functions.	Retains current law.		
B. Office of Unfair Trade Practices	No provision.	Establishes Office of Unfair Trade Practices to perform variety of tasks including coordination of interagency resources for specific cases.	No provision.		
C. GSP	President has authority to provide duty free treatment for eligible articles and to designate beneficiary countries.	Transfers all Presidential authority to USTR.	Retains current law.		

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<p>6. <u>International Trade Commission (ITC)</u></p>					
A. Import Monitoring	ITC empowered/required under S.332 of Tariff Act of 1930 to conduct various investigations, studies reports on trade and customs matters.	Directs ITC to conduct annual studies on competitiveness in US and within global markets re Key Sectors of US economy for purpose of anticipating problems and in policy formulation of remedies; choice of sectors determined after consultation with Ways & Means and Finance Cttees.	"Omnibus Trade and Competitiveness Act of 1987"/ [H.R.3(S.1420)] [passed July 21, 1987]	Requires ITC to submit annual report on negative economic effects on the U.S. of U.S. Import restrictions.	
B. Trade Remedy Assistance Office	Established in ITC to provide public with info on remedies/benefits available under US trade laws and applicable procedures.	Office to be separate entity in ITC and functions expanded to provide assistance and advice to interested parties especially to small businesses in preparing and filing petitions and obtaining remedies and benefits available.	Establishes Office of Small Business Trade Remedy Assistance and Council on Economic Competitiveness.		
C. Procedures	Specific provisions regarding treatment of confidential info and paperwork reduction.	Modifications in both areas.	Modifications to rules on confidentiality; silent on paperwork reduction.		

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III <u>IMPORT RELIEF</u>					
I. <u>Escape Clause</u> (Section 201)					
A. <u>Injury Criteria</u>					
(I) <u>Serious Injury</u>	ITC to consider all relevant factors, including significant idling of production, inability to operate at profit and significant unemployment.	Modifies the "inability to operate at profit" factor to include domestic facilities only.	Modifies the "inability to operate at profit" factor to include domestic facilities only.		Although not enshrined in law, Cdn practice similar to House/Senate proposals.
(II) <u>Threat of Injury</u>	ITC to consider all relevant factors, including decline in sales, growing inventories and a downtrend in production; profits, wages or unemployment.	Adds new factors: decreased market share, diversion of foreign exports to US and inadequate capital generation to modernize.	Adds new factors: decreased market share, coordination of foreign government action to become competitive in US; existence of dumping or countervail findings, inability of domestic firms to maintain R&D and diversion to US by reason of foreign trade restraints.	Objects to including existence of dumping or countervail findings as elements of injury.	Would include non-applicable factors, leg. A/D, CVD findings in injury determinations.
(III) <u>Causation</u>	Imports must be substantial cause of injury to domestic injury.	Non-aggregation of causes of declining demand associated with a recession to single cause of injury.	Non-aggregation of causes of declining demand associated with a recession to single cause of injury.		
B. <u>Definition of Domestic Industry</u>	i) May treat as part of domestic industry only domestic production (not imports). ii) May treat as domestic industry only that part producing article.	Changes may to shall in (i) and (ii).	Changes may to shall in (i).	Objects to disregarding imports as part of domestic industry.	Would make injury findings easier to obtain. Similar to Canadian practice.

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C. Isolated Markets	No provision.	ITC may disregard imports into isolated US markets to which domestic producers have not supplied or have found uneconomical to do so.	No provision.		
D. Time Frames	ITC must report injury determination and recommendation within six months of investigation initiated.	ITC must determine injury within four months; recommendation two months after.	ITC must determine injury and may make recommendation within five months.	Favours House version forcing ITC to concentrate on remedy for longer period.	
E. Provisional Relief					
a) Perishable Products	No provision.	Fast-track monitoring and import relief for perishable agricultural products. USTR may implement monitoring within 21 days of request; at least 90 days of monitoring before request for relief; remedy recommendation within 21 days of request; USTR decision with 7 days of recommendation; for provisional relief, relief termination if no injury.	Authorizes petitioners to file for import relief for perishable agricultural product. Within 14 days, Secy of Agriculture may recommend relief to President who then has seven days to provide relief. Relief maintained until ITC Section 201 investigation completed.	Prefers House proposal. Senate proposal GATT illegal.	Proposal similar to Cdn law (horticultural surtax.)
b) Critical Circumstances	No provision.	Authorizes provisional import relief if ITC, in determining injury, also finds critical circumstances. If ITC so finds, it shall suspend entry liquidation and may order deposit or bonds. USTR may override. Final relief would apply from this date.	President may find critical circumstances at anytime during ITC investigation and impose provisional measures. Measures maintained until revoked by President, ITC finds no injury or 60 days after ITC finds injury.	Opposes as providing relief without proper ITC finding.	Could result in unjustified import relief action.

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F. Industry Adjustment	No provision.	"Trade and International Economic Policy Reform Act of 1987" (HR3) (passed April 30, 1987)	"Omnibus Trade and Competitiveness Act of 1987" / (H.R.3(S.1420)) (passed July 21, 1987)	Prefers voluntary submission.	
G. Remedy Options	ITC to find amount of increase in, or imposition of, any duty or import restriction or recommend adjustment assistance to remedy injury.	ITC may recommend tariff increase, tariff rate quotas, quantitative restrictions or negotiation of OMA's. If ITC recommends quantitative restrictions, it shall recommend administration of import quotas by auction unless it determines that auctioning would have undesirable economic results.	ITC may recommend import relief or other (adjustment assistance, anti-trust exemption, multilateral negotiations or regulatory relief). Must also submit report on negative economic effects of import protection (see item 6.A., page 10).		
H. Authority	Within 60 days of affirmative ITC finding, President to provide relief unless it is not in national economic interest.	Transfer authority to USTR, who must decide within 30 days; USTR to provide relief unless it would threaten national security or the economic costs of relief would outweigh benefits.	President to provide relief unless action would endanger national security, cause serious injury to downstream domestic industry, disproportionately burden the poor, U.S. agriculture exports, employment or income or result in net job loss in USA.	Has threatened veto. Would seriously reduce Presidential discretion.	Limitation of Presidential authority would make international effects of import relief less of a factor in decision to provide relief.

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1. Quota Auction	Authorized by Section 1102 of Trade Agreements Act but not required.	Mandatory if ITC recommends quantitative restriction as remedy and determines that it would not have undesirable economic results.	Establishes pilot program for quota auctioning for next 3 cases if quotas are imposed under Section 201. Unless President determines that action would cause retaliation, cost of administration of auction would outweigh revenues or auction, could not be administered without giving one competitor undue market power.	Already has ample authority.	Canada concerned with implications of implementation. Have requested consultations if passed.
J. Duration	Relief for maximum of five years, to be extended for not more than three years.	Retains current law.	Relief for maximum of ten years (degressive).	Extension would undercut temporary nature of import relief.	Concern with extension of period for import relief.
2. National Security Safeguards (Section 232)					
A. Time Limits					
(I) <u>Commerce</u>	No time limit for Presidential action.	Secretary of Commerce to report to President within nine months of initiation of investigation.	Secretary of Commerce to report to President within six months of initiation of investigation.		
(II) <u>President</u>	No time limit for Presidential action.	President to decide whether to take action within 90 days of Commerce report.	President to decide whether to take action within 90 days of Commerce report.	Constrains flexibility and could complicate negotiations.	
B. Machine Tool VRA's	No provision.	Authorizes Commerce to request Treasury to enforce VRA's on machine tools negotiated as result of Section 232 action.	Authorizes President to enforce VRA's on machine tools negotiated as result of Section 232 action.		

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C. VRA's as Section 232 Option	No provision.	"Trade and International Economic Policy Reform Act of 1987" (HR3) [passed April 30, 1987]	"Omnibus Trade and Competitiveness Act of 1987" / [H.R.3(S.1420)] [passed July 21, 1987]	Clarifies authorization to conclude VRA's under Section 232. Places six month time limit on negotiation.	
3. Adjustment Assistance					
A. Worker Assistance					
(i) <u>Eligibility</u>	Secretary of Labour certifies eligibility if a significant number of workers in a firm have been or are threatened with separation, sales of firms have declined and import increases contributed importantly.	Retains current law.	Expands to include workers indirectly impacted by imports (i.e. firms providing parts or services to firms directly impacted.)	Opposed as Senate proposal would significantly increase costs of adjustment and delay process of adjustment.	
(ii) <u>Training</u>	Secretary of Labour may require eligible workers receiving benefits to accept job training.	Requires workers to accept training if there is no reasonable prospect that he will be reemployed in original position.	Requires workers to accept training unless not feasible or appropriate.	Supports early training.	
B. Firm Assistance					
(i) <u>Eligibility</u>	Secretary of Labour certifies firms' eligibility according to criteria similar to worker eligibility (see A(i) above).	Retains current law.	Expands to include workers indirectly impacted by imports (special provision for oil and natural gas firms).	Opposes expansion.	

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		"Trade and International Economic Policy Reform Act of 1987"(HR3) [passed April 30, 1987]	"Omnibus Trade and Competitiveness Act of 1987"/ [H.R.3(S.1420)] [passed July 21, 1987]		
(II) <u>Funding</u>	Appropriated from general revenues.	Creates Adjustment Assistance Trust Fund to be financed from general revenues and import fee. USTR to seek GATT agreement to impose fee.	Creates Adjustment Assistance Trust Fund to be financed from general revenues and import fee. USTR to seek GATT agreement to impose fee. Authorizes fee imposition regardless of outcome of multilateral negs.	Supports repeal of current trade adjustment measures. Strongly opposes import fee.	Canada opposes imposition of import fee. GATT Inconsistent.
<u>4. Non-Market Economies</u> [Section 406 of Trade Act of 1974]					
<u>A. Authority</u>	President authorized to provide temporary import relief if imports from non-market economies (Communist) are causing market disruption.	Authority transferred to USTR.	Retains current law.		
<u>B. Market Disruption</u>	Disruption exists whenever increasing imports are a significant cause of injury or threat thereof to domestic industry.	Disruption exists whenever increasing imports are an important cause of injury or threat thereof to domestic industry. Also provides for cumulation of imports.	Retains current law.		
<u>C. Remedy</u>					
<u>a) ITC</u>	ITC to determine market disruption and recommend remedy.	In addition to tariffs or quota, ITC may recommend variable tariff equivalent to average of domestic over import price.	Retains current law.		
<u>b) President</u>	If recommended, President to provide relief unless it is not in national economic interest.	If recommended, USTR to provide relief, unless it would be a serious negative impact on the domestic economy.	Retains current law.		

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IV UNFAIR TRADE PRACTICES		"Trade and International Economic Policy Reform Act of 1987"(HR3) [passed April 30, 1987]	"Omnibus Trade and Competitiveness Act of 1987"/ [H.R.3(S.1420)] [passed July 21, 1987]		
(Section 301 Reform)					
A. Report on Barriers on Market Access	USTR to report annually on foreign acts, policies or practices constituting barriers to trade and estimate of impact on US Commerce (National Trade Estimate)	Retains current law.	In NTE annual report, requires USTR to estimate trade and investment lost as result of barrier. Also requires USTR to investigate barriers maintained by auto producing countries.	Senate proposal impractical.	
B. Initiation	Investigation initiated by petition or by USTR.	Retains current law.	Requires USTR to self-initiate in cases where expansion of US trade is most likely and against countries maintaining consistent pattern of import barriers (adversarial trade).	Objects to Senate proposal for variety of policy and tactical reasons including broadening of grounds for mandatory self-initiation.	
C. Determination					
(I) Authority	USTR recommends action to President who decides whether Section 301 criteria are satisfied.	USTR to determine whether Section 301 criteria are satisfied. USTR also has authority to act subject to Presidential direction if any. USTR authority in cases involving export targeting or unjustifiable acts.	USTR to determine whether Section 301 criteria are satisfied. President retains authority to take action.	Prefers current law.	
(II) Consultations	Upon initiation, USTR required to request consultations with foreign country involved. If solution not found and case involves a trade agreement, USTR required to promptly request dispute settlement.	USTR to request dispute settlement not later than 150 days after initiation.	Retains current law.		

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(III) <u>Deadlines</u>	<p>USTR to make recommendation to President within:</p> <p>a) 7 months of initiation if petition alleges export subsidy covered by GATT.</p> <p>b) 8 months of initiation if petition alleges domestic subsidy covered by GATT.</p> <p>c) 30 days after conclusion of dispute settlement procedure.</p> <p>d) 12 months in any other case.</p>	<p>USTR to make recommendation within:</p> <p>a) 7 months of initiation if export subsidy covered by GATT alleged.</p> <p>b) 8 months of initiation if petition alleged domestic subsidy covered by GATT.</p> <p>c) First of 30 days after conclusion of dispute settlement procedure or 18 months after initiation.</p> <p>d) 12 months in any other case except export targetting.</p>	<p>"Omnibus Trade and Competitiveness Act of 1987"/ [H.R.3(S.1420)] [passed July 21, 1987]</p>	ADMIN POSITION	CDN POSITION
D. Action	<p>Authority to take action with President.</p>	<p>In unjustifiable and export targetting cases, authority to USTR with direction from President, if any.</p>	<p>Retains: current law.</p>	<p>Opposes mandatory action.</p>	<p>Canada objects to mandatory action as undercutting international negotiations and possibly inviting retaliation.</p>
(II) <u>Action</u>	<p>If Section 301 criteria are met, the President shall take all appropriate action to enforce rights or eliminate policy/practice. President may suspend etc. concessions, impose restrictions.</p>	<p>If Section 301 criteria satisfied, retaliatory action is mandatory unless there is a negative GATT finding, the country is taking measures or has agreed to do so, or action is not in US economic interest.</p>	<p>Mandatory action unless there is a negative GATT finding, an agreement to reduce or offset unfair practice, an agreement to compensate, retaliation would cause harm or not be in national economic interest.</p>	<p>Opposes mandatory action.</p>	<p>Canada objects to mandatory action as undercutting international negotiations and possibly inviting retaliation.</p>
(III) <u>Time Limit</u>	<p>Within 21 days of affirmative USTR recommendation.</p>	<p>Within 30 days of affirmative finding.</p>	<p>Within 15 months of initiation (9 months after favourable GATT ruling)</p>	<p>Opposes mandatory action.</p>	<p>Canada objects to mandatory action as undercutting international negotiations and possibly inviting retaliation.</p>

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(iv) <u>Modification/ Termination</u>	No provision.	"Trade and International Economic Policy Reform Act of 1987"(HR3) [passed April 30, 1987]	"Omnibus Trade and Competitiveness Act of 1987"/ [H.R.3(S.1420)] [passed July 21, 1987]		Sunset provision in Senate bill is pointed in right direction as is authority to terminate or modify actions as a result of GATT rulings.
E. Actionable Acts, Policies & Practices					
(i) <u>Trade</u>	Unjustifiable, unreasonable or discriminatory foreign acts burdening or restricting US Commerce.	Retains current law. Makes effect on US trade with third countries explicit (already practice).	Clarifies acts, policies and practices to include subsidies and import restrictions. Expands basis for action by adding 'threat to burden or restrict U.S. commerce'.		Broadened scope for action and overall expansion of list of foreign practices actionable under Section 301 would likely exacerbate international trade tensions, lead to more actions and possibly mirror legislation (especially Senate).
(ii) <u>Export Targetting</u>	Actionable provided they meet Section 301 criteria "unfair and inequitable".	Makes export targetting specifically actionable and defines. Adds threat to burden or restrict U.S. commerce as basis for action.	Defines export targetting and includes under definition of "unreasonable acts."	Could result in mirror action against U.S. industries benefitting from federally funded R&D, procurement programs.	
(iii) <u>Worker Rights</u>	No provision.	Includes in definition of unreasonable acts denial of worker rights.	Includes in definition of unreasonable acts denial of worker rights.	Counterproductive, could invite retaliation.	

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(iv) <u>Other Practices</u>	Includes denial of market access, right of establishment and lack of intellectual property protection as unreasonable or unjustifiable acts.	"Trade and International Economic Policy Reform Act of 1987"(HR3) [passed April 30, 1987]	"Omnibus Trade and Competitiveness Act of 1987"/ [H.R.3(S.1420)] [passed July 21, 1987]		
(v) <u>Unwarranted Trade Surplus</u>	No provision.	Mandatory negotiations and actions with respect to countries having unwarranted trade surpluses with the US (Gephardt Amendment). a) Requires annual ITC determination as to whether any major US trading partner has unwarranted trade surplus. b) Requires USTR determinations as to whether surplus countries maintain pattern of unjustifiable trade practices.	No provision.	Strongly objects. On record threatening veto. <u>NOTE:</u> With exception of Gephardt amendment, H.R.3 301 provisions are slightly more acceptable than 1420 provisions, but still very problematic.)	Canada strongly objects. Proposal deals with symptoms arising from lack of competitiveness of U.S. industry generally.

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F. Compensation	No authority for compensation for Section 301 actions.	"Trade and International Economic Policy Reform Act of 1987" (HR3) [passed April 30, 1987]	"Omnibus Trade and Competitiveness Act of 1987"/ [H.R.3(S.1420)] [passed July 21, 1987]	Supports.	Canada supports.
V <u>ANTIDUMPING AND COUNTERVAILING DUTIES</u>					
I. <u>Agriculture</u>					
A. Industry	Industry defined as domestic producers of a like product.	Permits inclusion of producers or growers of raw agricultural product as part of domestic industry if processed agricultural product is produced through a single continuous line of production and there is substantial coincidence of economic interest between producers and processors.	Same as House bill.		Mirrors Canadian practice (e.g. Beef from EC which is presently under consideration by GATT Panel.)

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B. <u>Countervail: Benefits to Processors</u>	Current U.S. law requires 'upstream subsidy' investigation whenever Commerce seeks to include benefits to products used in agricultural processing of raw product under question.	"Trade and International Economic Policy Reform Act of 1987" (HR3) [passed April 30, 1987]	"Omnibus Trade and Competitiveness Act of 1987"/ (H.R.3(S.1420)) [passed July 21, 1987]	Supports.	Could result in application of countervailing duty to finished products in excess of subsidy actually passed through. As such, GATT inconsistent. (See note on industry on pg. 21)
C. Standing	The following have standing to file an antidumping or countervailing duty petition: manufacturer, producer or wholesaler, a union or group of unions, trade or business association or a combination thereof.	In investigations involving agricultural products, interested party may include a coalition of trade associations representative of growers or processors.	Retains current law.		
2. <u>Injury</u>					
A. Factors	In determining injury or threat thereof, ITC to consider volume of imports, effect on domestic prices and impact on domestic producers.	Limits impact on domestic producers to production within U.S. Adds diversion of foreign products to U.S. and in case of agricultural products, likelihood of increased imports because of product shifting.	Limits impact on domestic products to production within U.S. Adds impact on R&D as well as existence of dumping findings in other countries.		

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1) Fungible Products	No Provision	No Provision	"Omnibus Trade and Competitiveness Act of 1987"/ [H.R.3(S.1420)] [passed July 21, 1987]		Provision for application of less rigorous standard could be to detriment of exporter.
B. Critical Circumstances	If petitioner alleges critical circumstances and Commerce agrees, dumping/countervailing duties will be applied retroactively upon preliminary determination. 190 days prior to preliminary determination]	Retains current law.	Adds to current law by authorizing Commerce to monitor, assess and declare critical circumstances prior to preliminary determination.	Opposed to retroactive application of duties which violate GATT obligations.	Retroactive application provided for under current Cdn law. Concern with declaration of critical circumstances prior to preliminary determination. Could lead to trade distortion.
C. Isolated Markets	No provision.	Allows ITC to disregard imports into geographically isolated markets. See Section C of Escape clause provisions.	No provision.		House bill similar to Canadian practice.
D. Cumulation	Mandates cumulation to imports from two or more countries in any dumping or countervail investigation.	Mandates ITC to cumulate dumped & subsidized imports in injury determination in both current and investigations during previous 12 which resulted in order, suspension or VRA.	Retain current law.	Supports in principle.	Extension of cumulation to previous cases of particular concern.

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3. <u>Anticircumvention</u>					
A. Assembly in U.S.	No provision.	If a product subject to either antidumping or countervailing order is assembled in U.S. from components imported from countries subject to an order, the order shall apply to the parts if: (i) substantially all of the parts are imported from the country subject to the order; (ii) U.S. value added is small; and (iii) parts were produced by a company related to U.S. company performing assembly.	Similar to House bill without provision (iii).	Generally supports but has proposed clarification of situations in which circumvention could occur.	Although not enshrined in legislation, concept has been applied in some Cdn cases.
B. Assembly in Third Countries	No provision.	Commerce may include in an order imports of same product from third country if same conditions as (A) are satisfied.	Similar to House bill but provision A(iii) is dropped.	See above.	CDA recognizes problem but believes unilateral action to address unwelcome.
C. Minor Alterations	No provision.	Creates presumption that articles altered in form or appearance in minor way shall be included in order.	Similar to House bill.		Could create trade barrier by giving customs additional discretion to determine minor alteration.
4. <u>Error Correction</u>	No provision.	Requires Commerce to establish procedures for correcting statistical errors after final determinations.	No provision.		Canada would support.
5. <u>Drawback</u>	Allows drawback of antidumping and countervailing duties.	Amends law not to allow drawback of antidumping and countervailing duty.	No provision.	Sympathic but would prefer discretion.	

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6. <u>Government Imports</u>	No provision.	"Trade and International Economic Policy Reform Act of 1987" (HR3) [passed April 30, 1987]	"Omnibus Trade and Competitiveness Act of 1987" / [H.R.3(S.1420)] [passed July 21, 1987]	Supports exemptions in Senate bill.	Canada objects to House version in particular.
7. <u>Countervail</u>					
A. Actionable Subsidies	List of actionable subsidies: (i) provision of capital, loans or loan guarantees on terms inconsistent with commercial considerations. (ii) provisions of goods or services at preferential rates. (iii) grants of funds or forgiveness of debt to cover losses. (iv) assumption of costs or expenses.	Definition of countervailability based on actual effect of subsidy on industry or group of industries rather than on nominal nature of program. Use of external benchmarks in commerciality test to determine existence and measurement of subsidy.	Definition of countervailability based on actual effect rather than nominal nature of program. CVD law expanded to include international consortia (cumulation of subsidies provided by multiple countries). Adds leases to CVD law.	Totally opposed to aspects of House proposal. Senate provision codifies current Commerce practice which Admin. could accept. Administration particularly opposed to use of external benchmarks.	Canada regards as unilateral departure from generally accepted international practice on what constitutes and how to measure actionable subsidies. Inclusion of leases mirrors Cdn law.
8. <u>Dumping</u>					
A. Input Dumping	No provision.	Expands scope of dumping law to imports using components already subject to dumping finding where import of inputs have declined and imports of manufactured product have increased. Mandates investigation and determination.	No provision.	Opposed to any proposal other than including dumped imports shipped through third markets in order to circumvent.	Clearly inconsistent with the GATT which strictly defines dumping.

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		"Trade and International Economic Policy Reform Act of 1987" (HR3) [passed April 30, 1987]	"Omnibus Trade and Competitiveness Act of 1987" / [H.R.3(S.1420)] [passed July 21, 1987]		
B. Downstream Products	No provision.	Adds new procedures for monitoring of imports of downstream products in order to identify potential diversionary practices. Calls for industry petition, ITC review and possible Commerce initiation of dumping or counterval investigation.	Similar to House bill.	Opposes on basis of cost, burden and limited benefit.	Concern with possible increase in self-initiated actions.
C. Sham Transactions	Importer of record liable for payment of dumping duties.	Retains current law.	Customs to treat U.S. end purchaser as importer liable for payment of antidumping duties if it is found that goods are being imported solely for purpose of absorbing duties (sham transaction).	Does not support. No benefit to industry which brought case in first place. Would also harm unrelated purchaser of product subject to action.	Mirrors Cdn practice.
D. Multiple Offenders	No provision.	Provides for monitoring and investigation of dumping by foreign companies found to be repeated dumpers. Calls for expedited initiation and investigations.	Similar to House bill.	Opposes on basis on cost and burden and possible mirror legislation.	
E. Civil Action	Antidumping Act of 1916 provides for private remedy for dumping if plaintiff can show intent to injure.	While reducing damages from treble to single and eliminating criminal penalties, provides for a rebuttable presumption that a multiple offender (see above) intended to injure.	No provision.	Opposed. GATT inconsistent and would undercut credibility in MTN. Could invite mirror legislation.	Inconsistent with GATT as it would expose exporter to more than one remedy for injurious dumping.
F. Compensation Awards	No provision.	Provides for compensation to US companies injured by dumping to be funded by dumping duties collected.	No provision.		

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G. Related Transactions	In cases involving U.S. sales made through parties related to foreign seller, permits deduction of foreign indirect selling costs from foreign market value and allows for profit and commission.	No provision.	Prohibits deduction of foreign indirect selling costs and eliminates allowance for profit and commission.	Would result in unfair calculations/comparisons of prices through elimination of offsets.	Senate proposal mirrors current Cdn practice.
H. Fictitious Sales	No provision	No provision	Gives Commerce authority to disregard home market of prices of products which are being artificially set to evade dumping. Provides for use of average prices of similar products.		Similar concept already provided for under Cdn law.
9. <u>Non-Market Economies</u>	Calls for use of surrogate country or constructed value to determine dumping by non-market economies.	Retains current law.	Expands surrogate country concept to be based on average price at which same or similar products are imported from market economic with largest share of U.S. market.	Prefers lowest average price from eligible markets as appropriate surrogate.	
VI INTELLECTUAL PROPERTY RIGHTS					
1. <u>Section 337 Reform</u>					
A. Injury Test	In addition to unfair act must show substantial injury or tendency to substantially injure U.S. industry or prevention of establishment of same.	Eliminates need to prove injury as regards enforcement of intellectual property rights (valid/enforceable patents, process patents, registered trademarks, copyrights or mask works.). On other cases, adds "impairment of" re establishment	Same as H.R.3 except "impairment of" required for all cases requiring injury test. Similar but not identical definition of industry as in H.R.3.	Supports.	Section 337 is inconsistent with GATT. Elimination of injury test makes section even more unacceptable.

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		of industry. Elaborates on definition of industry.			
B. Economic and efficient injury test	Must demonstrate injury occurred to such industry.	Eliminates requirement.	Eliminates requirement.	Supports.	
C. Procedures	Elaborated in some detail.	Reworked considerably.	For most part similar to H.R.3.	Supports.	
<u>2. Piracy/Market Access</u>					
A. Priority Countries	No provision.	USTR to identify "priority foreign countries" that deny adequate and effective protection of I.P. rights. Criteria established for identification purposes-list may be modified depending on developments. Also, sense of Congress that U.S. engage in efforts to improve multilateral disciplines in I.P. area with view to protecting U.S. business interests abroad.	Similar to H.R.3 plus separate provisions on market access.		
<u>3. Sect. 301 Investigations</u>					
A. Self Initiation	USR may self-initiate after consulting with ISAC'S.	USTR must self-initiate unless it would be detrimental to U.S. national economic interest.	Similar to H.R.3 except no exemption provided.	Objects to mandatory requirement.	Canada objects to mandatory requirement.

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B. Consultations	As (A) above.	Mandatory consults with Copyright Office and Office of Patents and Trademarks and other agencies on identification of priority countries and on objectives to be sought.	"Omnibus Trade and Competitiveness Act of 1987"/ [H.R.3(S.1420)] (passed July 21, 1987)		
C. Time Limits	Recommendation to President within 12 months after initiation.	Within six months. Period may be extended under certain specified circumstance eg., issue complex, country moving to afford effective protection.	Similar to H.R.3. but with more limited factors for extensions in time period.		
D. Presidential action.	Denial of adequate and effective protection defined as "unreasonable" act, policy or practice. Discretionary to seek elimination.	Action remains discretionary as under current law and as under H.R.3 for "unreasonable" practices. 301 procedures, as amended, to apply.	Mandatory action required with exception if action would be counter to national economic interests.	See (A) above.	See (A) above.
<u>4. Access to Technology</u>					
A. Monitoring Technology Transfers	National Trade Estimate (NTE) lists significant foreign Trade barriers.	No provision.	Adds to NTE requirement for annual report by USTR with national Science Foundation on transfers - ongoing monitoring requirement.		
B. Monitoring foreign I.P. Systems	No provision.	No provision.	Commerce to designate officers serving abroad to monitor and report on developments & assist U.S. exporters.		
C. Foreign Assistance for LDC's.	No provision.	No provision.	Sec'y of Commerce to establish with purpose of training individuals of		

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5. <u>Patented Process</u>	Provides limited protection for process patents.	"Trade and International Economic Policy Reform Act of 1987"(HR3) [passed April 30, 1987]	"Omnibus Trade and Competitiveness Act of 1987"/ [H.R.3(S.1420)] [passed July 21, 1987]		
			DC's in both management and technical skills re I.P. protection.		
		Closes loophole whereby products made without authorization from a process patented in the U.S. could be imported with impunity. Establishes remedies similar to product patents. Effective date Jan. 1, 1987 - thus commercial activities predating grandfathered.	(S.1200) Essentially the same as title XIV of H.R.3 although somewhat more stringent. Effective date of May 15/87.	Preference for Admin proposal in S.635. H.R.3 version preferred to Senate wording.	Generally mirrors Canadian law and practice. Prefer latest possible effective date.
<u>VII TELECOMMUNICATIONS</u>					
1. <u>Standard of Foreign Openness</u>	No provision.	Fully competitive market opportunities for U.S. telecommunications firms in markets having barriers.	Substantially equivalent market opportunities for U.S. telecommunications firms.	Objects to sector reciprocity concept.	Canada also objects to sector reciprocity concept.
2. <u>Investigations/ Negotiating Objectives</u>					
A. <u>Investigations</u>	No provision.	Within 180 days of enactment, USTR to identify foreign acts, policies and practices which deny U.S. firms fully competitive market opportunities.	Within four months of enactment, USTR to identify foreign acts, policies and practices: (i) which deny U.S. firms substantially equivalent access, and (ii) are inconsistent with U.S. Trade Agreements.		
B. <u>Negotiating Objectives</u>	No provision.	USTR to establish specific negotiating objectives for each country identified by (A) above.	No provision.		

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C. Consultation	No provision.	USTR must consult with Commerce and Interagency trade group.	Similar to House but includes consultations with FCC and ITC.		
D. Petitions	No provision.	Investigation may be initiated by either interested party or USTR self-initiation. Investigation and determination within 180 days.	No provision.		
3. <u>Negotiations</u>	No provision.	Requires negotiations with countries denying fully competitive market opportunities. Purpose to enter into bilateral or multilateral agreements to provide for access.	Similar but based on substantially equivalent access.		
4. <u>Time Limits</u>	No provision.	Agreements must be concluded within 18 months of initiation (6 months to investigate; one year to conclude). May extend for two one-year periods.	Same as House bill, except for extensions.	Objects to rigid timeframes.	
5. <u>Action</u>					
A. Mandatory	No provision.	President must retaliate if agreement not reached on primary objectives.	Similar to House bill.	Objects to mandatory action.	Canada objects to mandatory action. Market access problem should be addressed through multilateral negotiations.
B. Discretionary	No provision.	President may retaliate if agreement not reached on secondary objectives.	No provision.		

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C. Actions Authorized	No provision.	"Trade and International Economic Policy Reform Act of 1987" (HR3) [passed April 30, 1987]	"Omnibus Trade and Competitiveness Act of 1987" [H.R. 3(S. 1420)] [passed July 21, 1987]		
D. FCC Actions	No provision.	President may take any action permitted under Section 301, including action against imports. (the latter with Congressional authority). Generally, action to either fully offset foreign practice or restore balance of concessions.	Similar to House bill.		Canada objects to providing FCC with greater role in trade policy actions.
VIII MISCELLANEOUS TRADE LAW					
1. <u>Coffee Agreement</u>	Expires Oct. 1/87.	Directs FCC to report to Congress on sectoral reciprocity model process begun in 1986.	Extends U.S. participation until Oct. 1/89.	No provision. Prohibits entry of goods not conforming with FCC rules. Also provides for denial of goods to foreign supplier of service.	Same as House bill.
2. <u>Steel Imports</u>	Enforcement of voluntary restraint arrangements on steel under Steel Import Stabilization Act.	Provides authorization to employ 'melted and poured' as criterion for administration of restraint arrangements.	Same as House bill. It also adds certain wire products to restraint arrangements.	Opposes as it would compel renegotiation of restraint arrangements.	If imposed, rules would be variance with accepted international practice and would impact adversely on Canadian trade. May generate pressure for similar rules on other products.
			Gives USTR authority to take action necessary to ensure effectiveness of equity provisions of VRAs on steel.		Canada concerned with vagueness of authority. Could give Administration authority to take unilateral action against Canada.

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3. <u>Coal to Japan</u>	No provision.	USTR should negotiate arrangement with Japan to achieve reciprocity between coal imports from U.S. and steel exports to U.S.	Similar to House proposal.		
4. <u>U.S. Flag Ships/ Automotive</u>	No provision.	Requires President to take steps to negotiate trade agreements with foreign countries exporting at least 50,000 cars to U.S. annually to eliminate unfair marine practices.	Similar to House proposal.		
5. <u>Reallocation of GSP Benefits</u>	Trade Act of 1974 authorizes President to waive GSP benefit limits in certain circumstances.	Adds the debt problems of Latin American countries as a principal criteria for determining waiver.	No provision.		
6. <u>Caribbean Basin Initiative</u>	President to withdraw or suspend CBI status if countries no longer qualify for benefits.	President to withdraw or suspend CBI status for specific products, not country as a whole.	Extends Act for 12 years.		
7. <u>Romania MFN</u>	No provision.	Suspends MFN status.	Suspends MFN status pending satisfactory human rights protection.		
8. <u>Duty Suspension</u>	U.S. duties may only be suspended legislatively.	No provision.	Establishes process within Executive for obtaining noncontroversial suspensions.		Positive development.
9. <u>Small Business</u>	Small Business Act established to improve ability of small business to compete.	Provides export financing, establishes Trade Assistance Division in Commerce to help small business to bring trade actions.	No provision.		Additional expenditure for export financing not justified.

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10. <u>Ocean Transportation Practices Act</u>	No provision.	"Trade and International Economic Policy Reform Act of 1987"(HR3) [passed April 30, 1987]	"Omnibus Trade and Competitiveness Act of 1987"/ [H.R.3(S.1420)] [passed July 21, 1987]	Opposed.	Canadian concern regarding unilateral action to address issues rather than in multilateral negotiations. Also concerned with harassment potential of Senate proposal as slight differences in regulatory regimes could result in complaint and possible action.
11. <u>International Air Transportation Fair Competitive Practices</u>	Original Act passed in 1974.	Amends timeframes for action further to complaints under this Act.	As per House bill.	Timeframes too short to deal with air carrier complaints.	Canada opposes as it would shorten periods for air negotiations and could lead to unsatisfactory agreements.
12. <u>Export Control Sanctions</u>	No provision.	No provision.	Mandatory sanctions (2-5 yr import prohibitions) against foreign companies violating COCOM controls by selling technology to USSR. Retroactive application of 5 yr ban to Toshiba (Japan) and Kongsbert (Norway). Provisions for recovery of damages occasioned to U.S. national security interests.		Unilateral action inappropriate in light of international and/or bilateral avenues available to address problems.
13. <u>Plant Closings</u>	No provision.	No provision.	Requires employers to give 60 day notice of plant closings or mass layoffs to employees and local governments.	Administration strongly opposed. Considers undue interference in market. Has threatened veto.	

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<u>IX TARIFF AND CUSTOMS PROVISIONS</u>					
<u>1. Tariff Changes</u>		Both the House and the Senate bills call for temporary and permanent changes in tariffs for a number of individual products. Permanent changes include: casein, plums, grapefruit juice, hatters' fur, edgewood plywood and wood veneer, work gloves (made from cut and sewn coated fabrics), broadwoven fabrics, silicone resins, naptha, iron or steel slabs, TV parts, shock wave lithotripters, uranium hexathuride and certain benzoid chemicals).	"Omnibus Trade and Competitiveness Act of 1987"/ (H.R. 3(S. 1420)) (passed July 21, 1987)		Canada objects to tariff increases on several products (grapefruit juice, certain plywood and uranium hexathuride. Letter targeted at Canada).
<u>2. Sugar Drawback</u>	Provides for duty drawback to U.S. refiners on sugar imported in last three years.	Extends period for duty drawback back to sugar exported in last ten years. (Oct. 31/77)	Extends period for duty drawback to sugar exported in last 10 years. (Oct. 31/77).	Objects on basis of revenue lost, inconsistency with GATT, fear of retaliation and administrative burden.	Canada objects as extension of drawback period would give U.S. sugar exporters unfair advantage and would be inconsistent with GATT.
<u>3. Scofflaw Penalty</u>	No provision.	Prohibits importation by persons convicted of three serious Customs related offences over seven year period.	No provision. Provides for private right of action for U.S. industry if injured by reason of customs fraud or gross negligence on part of importer.		Canadian concern regarding use of prohibition as instrument of Customs enforcement.

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4. <u>Nairobi Protocol/ Florence Agreement</u>		"Trade and International Economic Policy Reform Act of 1987"(HR3) (passed April 30, 1987)	"Omnibus Trade and Compe- titiveness Act of 1987"/ (H.R.3(S.1420)) (passed July 21, 1987)	Supports.	Canada not signatory. Government has taken position that it must retain ability to impose tariffs to protect publishing industry. This U.S. move might increase pressure on Canada to follow suit.
5. <u>Labelling</u>		Increases penalties regarding country of origin labelling requirements.	No provision.		
6. <u>Watches and Parts</u>		No provision.	Special marking requirements.		
X <u>BUY AMERICA ACT OF 1987</u>	The Buy America Act of 1933 and the Trade Agreements Act of 1979 represent source legislation on government procurement.	Thrust of legislative proposals is directed at non-signatories to Gov't Proc. Code. Provision is made for annual report of Compliance by Signatories to Code. President to invoke dispute settlement provisions of Code within 60 days for non-compliance. If action not completed within one year of initiation, country affected will be considered as "not in good standing" and benefits of waiver for Code Signatories will be withdrawn.	No provisions.		Pending outcome of dispute settlement process, revocation of waiver and denial of benefits to Code Signatories would be inconsistent with U.S. obligations under Code.

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XI <u>COMPETITIVENESS</u>		"Trade and International Economic Policy Reform Act of 1987"(HR3) (passed April 30, 1987)	"Omnibus Trade and Competitiveness Act of 1987"/ [H.R.3(S.1420)] (passed July 21, 1987)		
1. <u>Education & Training</u>		Title V, "Education and Training for American Competiveness Act of 1987" provides wide range of new programs to enhance the quality of education generally at elementary, secondary and other levels to improve U.S. productivity and competitive position by investing in human capital, to enhance worker skills, etc. Funding for program would be in order of \$1 billion in 1987. <u>Provisions are separate from Adjustment measures included in Section III relating to import relief.</u>	No corresponding provisions.		
2. <u>General</u>		Various miscellaneous provisions included in Title IX including requirement for competitive impact statements, establishment of National Trade Data bank and other related initiatives to support.	No directly corresponding Title although certain provisions such as impact statements, national trade data bank, provided elsewhere.		

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CDN POSITION

(passed April 30, 1987)

(passed July 21, 1987)

XII EXPORT ENHANCEMENT

TITLE III - "Export Enhancement of 1987".

1. Purposes

Promote world growth to improve U.S. standard of living, broaden overseas markets, establishment of stable and competitive U.S. dollar, increasing U.S. exports, restoring markets for U.S. exports in LDCs.

2. Export Promotion

Establish U.S. and Foreign Commercial Service withing ITA to promote and protect U.S. interests abroad. Primary emphasis on exports of goods and services by small/medium sized businesses. Create Market Development Cooperator Program and generally to authorize funding for export promotion, preparation of reports on foreign economic policies and trade practices, including agricultural trade, in order that better use be made of export promotion programs including EX-IM Bank.

3. Export Controls

Calls for a prohibition on U.S. exports of crude oil except for exchange arrangements with adjacent countries. Canada and Mexico effectively exempted.

No provision.

Opposes export prohibition on oil.

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		"Trade and International Economic Policy Reform Act of 1987" (HR3) (passed April 30, 1987)	"Omnibus Trade and Competitiveness Act of 1987" / (H.R. 3(S. 1420)) (passed July 21, 1987)		
		Modifies extensively current export control policies in order to accelerate decontrol of technologies and products which are no longer critical to U.S. security. Establishes Export Administration Reform Commission with statement of functions.		Generally supportive of relaxation on controls which do not pose threat to U.S. but concerned with diversion through breaking of control trail (e.g. 'PRC green line').	Cda supports.
4. <u>OPIC/TDP</u>		Reaffirms support for and increases funding levels for Overseas Private Investment Corporation (OPIC) and Trade and Development Program (TDP).			
5. <u>Debt Development and World Growth</u>		Seeks through negotiations the coordination of policies in order to promote world economic growth and consequent growth in available markets for U.S. exports.			
<u>XIII BANKING/INVESTMENT</u>					
1. <u>Competitive-Exchange Rate Act</u>		TITLE IV "Competitive Exchange Rate Act 1987" Reforms to exchange rate system for better coordination of macroeconomic policies and stability in trade & current account balances, coordinated intervention in currency markets, and Presidential accountability for impact of exchange rates on trade competitiveness.			

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2. <u>Third World Debt Management Act.</u>		"Trade and International Economic Policy Reform Act of 1987"(HR3) (passed April 30, 1987)	"Omnibus Trade and Competitiveness Act of 1987"/ (H.R.3(S.1420)) (passed July 21, 1987)		
		Calls for range of measures aimed at alleviating international debt crisis, expanding world trade and development, raising level of U.S. exports to LDCs, increasing stability of world financial system and expanding role of World Bank and other multilateral development banks including IMF. Proposal for limited purpose Special Drawing Rights for LLDC's under aegis of IMF.	TITLE XVII: International debt. Many similar measures as in HR3 including, in particular, requirement for negotiations by Sec. of Treasury to establish multilateral financial intermediary to manage third world debt problems.	Has voiced various concerns, e.g. budgetary impact, undermining current negotiations with debtors. Opposed to mandatory negotiation of multilateral debt management facility.	
3. <u>Council on Industrial Competitiveness</u>					
		Establishes council to gather and analyze information regarding U.S. competitiveness, create institutional forum for identifying problems, developing strategies and consensus building and make recommendations.			
4. <u>Export Trading Company Amendments</u>					
		Amendments relate primarily to determination of applicability of classification of firms.		Has indicated some concerns.	
5. <u>Foreign Corrupt Practices Act Amendments</u>					
		Amends Securities Exchange Act of 1934 in respect of foreign trade practices by issuers.	Title XVI.		

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6. <u>Financial Services - National Treatment</u>		<u>"Trade and International Economic Policy Reform Act of 1987" (HR3)</u> [passed April 30, 1987]	"Omnibus Trade and Compe- titiveness Act of 1987"/ [H.R.3(S.1420)] [passed July 21, 1987]	Measures in this area considered satisfactory.	
		Secy's of Commerce, Treasury & USTR to conduct financial services study to determine: (a) foreign countries from which financial services institutions provide services in U.S., (b) kinds of financial services offered and (c) extent to which U.S. institutions permitted to offer same services in each of foreign countries concerned. (Primary dealer provision similar to Senate bill proposed but not voted).	TITLE XV: Requires biennial reports on foreign treatment of U.S. financial institutions. Subject to prior approval of President, SEC may deny registrations by brokers/ dealers where same competi- tive opportunities denied in home country; Discus- sions mandated with foreign govts of countries with major financial centres to ensure access/national treatment; designation as primary dealer to be denied to foreign persons if same competitive opportunities not provided on national treatment basis in home market to U.S. nationals with exception for coun- tries negotiating bilateral agts with USA (Israel/Canada).		Primary dealer exception for Cda is satisfactory.
7. <u>Registration of Foreign Held Interests</u>		"Bryant" amendment - new requirement to register with Sec'y of Commerce significant, controlling, or major portfolio interests in U.S. properties.	No provision.		

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8. <u>National Security/ Essential Commerce Investigation</u>		"Trade and International Economic Policy Reform Act of 1987"(HR3) [passed April 30, 1987]	"Omnibus Trade and Competitiveness Act of 1987"/ [H.R.3(S.1420)] [passed July 21, 1987]		
		Upon request, Sec'y of Commerce to determine effects on national security, essential commerce and economic welfare of mergers acquisitions, takeovers, etc. by foreign interests. President may restrict, suspend or prohibit such actions if national security or essential commerce threatened.	"EXON" amendment - Similar but weaker than corresponding H.R.3 provision.	Opposes on grounds that it would invite mirror legislation, deny needed capital to U.S., undercut multilateral efforts to create openness.	Cdn concern re potential barrier to investment.
9. <u>Foreign Agricultural Investment Reform Act</u>	No provision.	No provision.	Directs U.S. directors to Multilateral Development Banks to oppose loans to be used to increase production of minerals or commodities in worldwide oversupply. Sanctions include reduction of U.S. contributions to multilateral banks.		Concern regarding impact of U.S. sanction on overall development strategy.
XIV AGRICULTURE					
1. <u>Funding for defence of CVD actions</u>	No provision.	Sec'y of Agriculture required to use funds or commodities to assist U.S. Ag. producers in defending foreign CVD Actions to offset benefits of U.S. programs.	Similar to H.R.3 but action discretionary ("May").		Funding itself could be found countervailable.
2. <u>Canadian Wheat Board</u>	No provision.	Sec'y of Agriculture to study impact of CMB import licencing requirements on U.S. exports. USTR to seek through negotiation their elimination.	No provision.		

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3. <u>Export Enhancement Program</u>	Funded at \$1-\$1.5 billion for 1985-88. Eligible countries generally limited to those where EC has established presence through subsidization.	-Sense of Congress - Expand list of eligible countries. -Extend EEP for further two years with additional funding of \$1 billion.	"Omnibus Trade and Competitiveness Act of 1987"/ [H.R.3(S.1420)] (passed July 21, 1987)	No provision. Same as H.R.3. Would require use of EEP in response to cases of alleged unfair ag. trade practices.	Opposes expansion of EEP.	Proposals to extend and expand EEP would further depress world ag. prices. Concern over U.S. targetting of traditional Cdn markets.
4. <u>Marketing orders for fruits and vegetables</u>	Requires imported products to meet same or comparable quality standards as domestic products, with potential result that standards favour domestic producers.	Secretary of Agriculture permitted to advance effective date of marketing orders when it is determined imported commodities are not meeting quality standards.	Same as H.R. 3.		As marketing orders discriminate against foreign suppliers, opposed to extension of effective dates.	
5. <u>Honey Imports</u>	No provision.	Secretary of Agriculture to conduct study of impact of honey imports.	Same as H.R.3			
6. <u>Rose Imports</u>	No provision.	Same as for honey.	No provision.			
7. <u>Dairy Imports</u>	Quotas maintained on most imports of dairy products to protect dairy price support program. (Sect. 22 of Ag. Adj. Act)	Secretary of Agriculture to study impact of reduction or elimination of quotas on imports of certain dairy products, as result of MTN, or other negotiations/agreements.	Same as H.R. 3			

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8. <u>Meat and Poultry</u>	No provision.	Secretary of Agriculture to issue report regarding inspection of such products.	No provision.		
9. <u>Tobacco</u>	Under Sect. 22 of Ag. Adj. Act. ITC can be required to investigate impact on U.S. price support programs for various commodities, including tobacco, and if affirmative, recommend import restrictions.	Adds additional criteria for ITC to consider which would make it easier to make affirmative finding.	No provision.		
10. <u>Meat Import Act (LAMB)</u>	Meat Import Act provides basis for restricting imports of beef & veal where imports exceed certain trigger levels. Lamb is not included.	Secretary of Agriculture to conduct study of lamb imports.	No provision.		
		No provision.	Provides basis for restricting lamb imports, parallel to Meat Import Act.	Objects as would be GATT inconsistent and could invite retaliation	Could provoke pressure in Canada to adopt similar legislation.
11. <u>Cdn CVD action on U.S. corn</u>	No provision.	Sense of Congress. USTR should initiate 332 investigation to determine GATT consistency and, if not consistent, initiate 301 action.			Canadian action consistent with GATT.

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12. <u>Food labelling</u>	No provision.	No provision.	"Omnibus Trade and Competitiveness Act of 1987"/ [H.R.3(S.1420)] (passed July 21, 1987)	Opposes provision.	Depending on the nature of implementing regs., could be GATT inconsistent and discriminatory against imported food products. An additional burden on trade.
13. <u>Food Assistance Agreements</u>		Recipient countries under Food Assistance Agreements with U.S. to be encouraged to give preference to U.S. products.	No provision		Discriminatory and would be inconsistent with various international agreements.

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