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H.Res. 450, Rule for Getting the Trade Bill to Conference

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Summary

On June 19, 2002, the House Rules Committee reported H.Res. 450, a special rule providing for the adoption of a further House amendment to the Senate amendment to H.R. 3009, the Andean trade bill. H.Res. 450, as reported, provides that the vote to agree to the special rule is simultaneously a vote also (1) to agree to the Senate amendment with a further House amendment (the text of this amendment is contained in H.Rept. 107-518, the report accompanying the rule) and (2) to insist upon the House amendment, disagree to the Senate amendment, and request a conference with the Senate. This report describes the key features of this special rule and the parliamentary effect its adoption may have.

Background on Legislative Action

House Resolution 450, the special rule reported from the Rules Committee on June 19, 2002, provides for the adoption of a further House amendment to the Senate amendment to H.R. 3009, the Andean trade bill. The resolution serves several distinct purposes. Under the current parliamentary situation, there is no language in H.R. 3009, as passed by the House, on a number of trade-related subjects. The Senate amendment to H.R. 3009 includes provisions on fast-track authority, expanded trade adjustment assistance, and some additional items dealing with health care. Without a further House amendment to the bill, House precedents stipulate that its conferees negotiate from the basis of current law on those subjects included in the Senate amendment but not contained in the original House version of H.R. 3009. This is despite the fact that the House has passed several other trade-related measures on which the Senate has not directly acted.

The special rule incorporates into the House version of the bill trade policy provisions taken from several House-passed bills. In addition, the amendment made in order by special rule adds still other trade provisions that have not yet been considered by the House. No floor amendments or debate, except on the rule itself, will be in order to this further House amendment.

The House Amendment Made in Order by H.Res. 450

As passed by the House, H.R. 3009 provided for low-tariff treatment of imports from Andean countries. In amending this bill, the Senate expanded its scope significantly, to include fast-track trade negotiating authority for the President and expanded assistance to workers under the Trade Adjustment Assistance (TAA) program. On some of these subjects (and on other trade-related topics), the House had previously passed separate measures. Representative Bill Thomas (R-CA), the chairman of the House Ways and Means Committee, requested from the House Rules Committee a rule by which the House would further amend the Senate amendment by an amendment that included the provisions of certain other House-passed trade measures and provisions on some subjects that the House has not yet acted upon.

As reported by the Rules Committee, H.Res. 450 deems the House to have agreed to the Senate amendment to H.R. 3009 with a further House amendment containing provisions taken entirely or in part from six measures previously passed by the House:

- H.R. 3005, Bipartisan Trade Promotion Authority Act of 2001, as passed by the House on December 6, 2001;
- The language of H.Con.Res. 262, as passed by the House on November 7, 2001, expressing congressional concerns regarding the World Trade Organization's (WTO) dispute settlement panels and the WTO Appellate Body, and the standard of review contained in Article 17.6 of the Anti-Dumping Agreement;
- H.R. 3009, the Andean Trade Preference and Drug Eradication Act, as passed by the House on November 16, 2001;
- Language in section 1405 of H.R. 4775, supplemental appropriations, as passed by the House on May 24, 2002, requiring that, for apparel made with U.S. fabric to qualify for benefits under the Caribbean Basin Initiative and Andean Trade Preferences Act, all dyeing and finishing of the fabric must take place in the United States;
- H.R. 3129, the Customs Border Security Act, as passed by the House on May 22, 2002; and
- H.R. 3010, extension of the Generalized System of Preferences, as reported by the Ways and Means Committee on October 16, 2001.

The amendment made in order by the special rule also contains provisions on a number of subjects that the House has not previously considered:

- Extension of coverage and benefits under Trade Adjustment Assistance (TAA) by:
 - expanding coverage to secondary workers by covering certain suppliers;
 - adding health insurance tax credits to TAA recipients and certain others;
 - extending direct assistance benefits for 26 additional weeks;
 - requiring the petition process to be completed in 40 instead of 60 days;

—increasing funding for worker training from \$80 to \$110 million to accommodate increased number of workers eligible under TAA;

- Authorization of judgment payments to avoid sanctions from certain WTO dispute settlement cases; and
- Requirement that the U.S. Customs Service collect duties from importers on a monthly basis and prohibition against deferral of duty payments beyond the specified duty collection period.¹

Authority of Conferees: Effect of H.Res. 450

In general, House and Senate conferees are free to negotiate compromises on the topics committed to them in conference. The House-passed bill (H.R. 3009) is relatively narrow in its scope. The Senate-passed amendment includes new subjects not now in H.R. 3009. Normally, if a House-passed measure contained no provisions on a subject contained in the Senate amendment to the measure, the official position of House conferees would be to support current law in negotiations on the new subjects added to the bill by the Senate amendment.

The special rule incorporates a number of trade measures passed by the House as free-standing bills and incorporates them (and other new provisions) into a House amendment to the Senate amendment to H.R. 3009. If the special rule passes, the House position in conference negotiations will be based instead on the new House provisions in the further House amendment, and no longer on current law.

If the special rule is agreed to, conferees will work under established chamber rules. Normally, House conferees are authorized to negotiate over items in dispute within the boundaries set by “the scope of the differences” in the two versions of the bill. For illustrative purposes, where the House bill provides \$5 billion for a specific purpose and the Senate bill provides \$10 billion for the same purpose, a compromise falls within the scope of the differences if the amount recommended by conferees falls between \$5 and \$10 billion. Thus, for example, House conferees could agree to a Senate provision, or to a modification of it, so long as the modification came within the “scope” boundaries set by the two versions of the bill.

In some circumstances, conferees may believe it necessary to violate the House standards on “scope” in order to reach a compromise.² If that were to be the case, the House managers could ask the House Rules Committee to report a special rule waiving points of order against the conference report. Alternatively, the managers could seek to

¹ Summary of provisions in the further House amendment taken from the House Rules Committee’s Web site, available at [www.house.gov/rules/107rule3009motion.htm] (visited June 24, 2002). The full text of the amendment is printed in H.Rept. 108-518.

² Senate limits on conferees are much less restrictive. When Senate conferees negotiate over a second-chamber substitute amendment (as they would likely be doing on H.R. 3009), they may agree to a compromise that is “not totally irrelevant” to either the House or Senate versions of the bill. House scope standards would likely render such a compromise subject to a point of order.

bring the conference report up under a motion to suspend the rules (which has the effect of waiving all points of order). In addition, the Senate could decide to consider the substance of the conference compromise as a further Senate amendment to the House amendment. No Senate point of order would lie against such an amendment.

Regular House Procedures: Effect of H.Res. 450

The rule reported from the Rules Committee is procedurally complex. It is a so-called “hereby” rule, in which the vote to agree to the rule is also a vote to agree to the further House amendment to the Senate amendment. No separate debate will be permitted on the proposed House amendment. No additional amendments to the proposed House amendment will be permitted. The rule further provides that, by adoption of the special rule, the House shall be deemed to have disagreed to the Senate amendment, insisted on its new amendment, and requested a conference with the Senate. It is unusual in the House for one special rule to encompass so many parliamentary actions through one vote.

Other Parliamentary Issues

A number of other parliamentary issues may be raised in connection with House action on H.Res. 450.

Ordering the Previous Question. This procedural motion, to be offered at the end of debate on H.Res. 450, will have the effect of bringing the House to an immediate vote on the rule without further debate or amendment to it. If the previous question motion is defeated, an amendment to the rule may be offered, usually by a minority party member of the Rules Committee. A germane amendment to the rule could alter the floor procedures concerning H.R. 3009 and could also alter the text of the proposed further House amendment to the Senate amendment to H.R. 3009. One hour of debate would be provided for the amendment to the rule, and the previous question motion would again be offered and, if agreed to, would bring to House to an immediate vote on the Democratic amendment and, then, to a vote to adopt the rule, as amended.

Defeating the Special Rule. For H.Res. 450 to go into effect, it must be adopted by majority vote of the House. If the rule were to fail of passage, the current status of the trade bill would remain the same: that is, the Senate amendment to H.R. 3009 would still be available for further House action. The Rules Committee could draft another special rule, taking into account concerns about H.Res. 450 expressed by House Members. Alternatively, the House could, without benefit of a special rule, go to conference without modifying the provisions of H.R. 3009, as originally passed by the House.

Instructing Conferees. If the House agrees to H.Res. 450, it would still be in order for a Member to offer a motion to instruct the conferees who are to be named pursuant to the resolution. A motion to instruct conferees is in order so long as the House has not yet appointed its conferees. Although H.Res. 450 “deems” certain parliamentary steps leading toward conference to have occurred, it would still be in order for a Member to offer a motion to instruct conferees, so long as the Speaker had not yet announced their appointment. In addition, of course, further instructions could be offered if the conferees failed to reach an agreement within 20 days of the date on which the second chamber appointed its managers.