

**TESTIMONY**

**OF**

**MARK VAN PUTTEN**  
**PRESIDENT AND CEO**  
**NATIONAL WILDLIFE FEDERATION**

**BEFORE THE**  
**COMMITTEE ON FINANCE**  
**UNITED STATES SENATE**

**ON**

**TRADE PROMOTION AUTHORITY**

**June 20, 2001**

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I am Mark Van Putten, President and Chief Executive Officer of the National Wildlife Federation, the nation's largest conservation education and advocacy organization.

For over a decade, the National Wildlife Federation has been involved in the development of United States trade policy. Our members are America's mainstream and main street conservation advocates who share a commitment to United States leadership in building a global economy that protects the environment while raising living standards for all people throughout the world.

**A New Consensus on Trade and Environment**

Today, we have an historic opportunity to demonstrate leadership and forge a new consensus on trade policy in the United States by developing Trade Promotion Authority that reflects the values and interests of all Americans. A new consensus on trade is achievable and within reach. Yet, the challenges ahead are significant.

Let me be emphatically clear. To the degree that a stereotype is being created in the public mind that the environmental community wants to "shut down" international trade, that stereotype is false.

Indeed, the greatest and most immediate risk to the trade agenda is in attempts to exclude environmental issues. This approach to trade promotion authority will polarize the debate and paralyze the process rather than begin the hard and deliberate work towards building consensus.

The National Wildlife Federation wants to get to yes on trade.

Even more, the National Wildlife Federation wants international trade to achieve its fundamental goal – improving the quality of life for individual citizens in the nations that join international trade agreements. Because the quality of our air, water, land and wildlife is inextricably linked with our quality of life, the environment is inextricably linked with trade. We want that relationship recognized in U.S. trade policy and in international trade agreements.

The National Wildlife Federation supports further trade liberalization if U.S. and international trade policies and institutions are reformed with common sense measures to integrate economic and environmental priorities.

One of the greatest challenges facing the members of this Committee and the Administration is that the international trading system is in a crisis of plummeting public confidence. Until trade rules embrace such core democratic values as environmental stewardship, new trade agreements are unlikely to win the public support needed to implement them.

Regrettably, recent Trade Promotion Authority proposals lack specific assurances on environmental goals, may unnecessarily restrict the capacity of negotiators to address environmental issues in trade negotiations, and fall short of the mark in setting us on the road to consensus.

Three common sense, achievable principles must be incorporated into Trade Promotion Authority and trade negotiations before new trade agreements qualify for “Fast Track” treatment in Congress.

### **The National Wildlife Federation’s Three Principles**

#### **1. Trade Liberalization Should Support, Not Undermine, Environmental Protection.**

Expanding trade and protection for the environment can be compatible. The problem is that some have tried to use trade rules to undermine environmental protection, and there is a danger that environmental protection will be weakened in a misguided effort to gain trade advantages. Let me give several examples of the corrective action that must be taken to ensure that trade rules and environmental protection are compatible:

Trade Promotion Authority and new trade and investment agreements should ensure that private investors cannot challenge environmental laws before international tribunals.

NAFTA's Chapter 11 investment provisions have recently been used in major challenges to environmental safeguards. Chapter 11 creates the potential for challenges to environmental protections using trade agreements when such challenges would be rejected under U.S. law.

The problems with Chapter 11 need to be corrected and must not be replicated in new trade agreements. Trade law and policy should preclude the type of private right of action created under Chapter 11 which has been used by investors to challenge domestic laws such as those relating to water contamination, hazardous waste, and bulk water exports. Trade law and policy should also constrain overly broad interpretations of the terms “expropriation” and “fair and equitable treatment.”

More generally, trade agreements must recognize legitimate national and international

environmental standards. For example, individuals and nations should be able to take into account the environmental effects of how imports are produced.

Agreements should also ensure that nations enforce environmental laws and agree not to lower environmental standards to gain trade and investment advantages. Mechanisms to ensure compliance with environmental provisions in trade agreements should be on par with commercial provisions.

**2. The United States Should Promote Global Consensus.** Liberalized trade abroad can be vital to securing the means for less developed nations to implement policies for sustainable development and environmental protection. But these results are not a given. They do not occur automatically. Trade agreements should be accompanied by a systematic program to assess and improve international environmental performance through cooperation, capacity-building assistance and technology transfer.

The United States should evaluate the lessons of NAFTA and strengthen and extend the commitment to environmental cooperation institutions under NAFTA and beyond. The level of engagement by the United States in these environmental cooperation institutions linked to trade agreements will be a key factor in measuring U.S. commitment to integrating trade and environment.

**3. Trade Negotiation and Dispute Procedures Should Be Reformed to Make Them More Open, Democratic, and Accountable.** The era of international trade negotiations being insulated from public concerns, including respect for the environment, is over. Trade institutions and negotiations must adopt modern, democratic principles of due process, including recognition of the right of the public to review and comment on the written record of a trade dispute, access to the working text of agreements and a permanent role for nongovernmental organizations (NGOs) in trade institution activities. Environmental review of proposed trade agreements should be ensured so that the environmental ramifications are carefully evaluated and taken into account in deciding whether to join in an agreement and on what its terms should be.

### **The Road to Consensus**

Consensus on trade and environment will not be built in a day, but as work goes forward on Trade Promotion Authority legislation there are immediate opportunities for the Administration to demonstrate support for reasonable solutions.

For example, the Administration should support Congressional approval of the Jordan agreement 'as is' and with no strings attached in the form of interpretative agreements that erode what was accomplished.

For example, the Administration should reject efforts that are being made to undercut the checks and balances between the Border Environment Cooperation Commission (BECC) and the North

American Development Bank (NADBank) that ensure that environmental criteria are applied to infrastructure funded under NAFTA.

For example, in the upcoming meeting of the NAFTA environment ministers in Guadalajara, Mexico, the Administration should ensure that the new working group with responsibility for the Commission for Environmental Cooperation (CEC) biodiversity strategy will have stakeholder participation, including NGOs.

For example, the Administration should support the Article 14 and 15 citizen submission process and the issuance of factual records, including those involving the United States, since elucidation of the facts is the minimum that should be done to explore citizen complaints.

For example, the Administration should ensure full funding and provide strong support for the environmental cooperation institutions under NAFTA.

The list goes on. The point is there is no need to wait.

### **Conclusion**

It is in the interest of all traditional trade advocates who remain committed to old approaches to take into account public concern for the environment as part of a new international trade system.

It is in the interest of everyone who wants trade to succeed to establish public confidence in the institutions and policies governing trade. Fortunately, consensus solutions are within reach and we look forward to working with this Committee and all concerned to find common ground.

In this effort, the National Wildlife Federation is engaged and committed to advancing the cause of conservation in the global economy. I can summarize by saying that we need to recognize for the new international economy what we began to recognize about our own national economy as the 20th century opened – that trade is not an end in itself. It is a tool to achieve human aspirations, to improve standards of living and to enhance the quality of life. Our environment, our wild places and wild things are part of humanity's quality of life.

Thank you.