



Committee On Finance

Max Baucus, Ranking Member

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Floor Statement of U.S. Senator Max Baucus Regarding CAFTA

(WASHINGTON, D.C.) Last night, U.S. Senator Max Baucus delivered the following statement on the Senate floor concerning CAFTA legislation.

The statement follows:

Mr. President, tonight the Senate begins its consideration of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act – what we call CAFTA.

I will be speaking in some detail on CAFTA tomorrow. For tonight, I want to open the debate with some observations about the process that brought us here.

CAFTA has proved itself to be the most controversial trade agreement to come before the Congress since the North American Free Trade Agreement a decade ago. It didn't have to be this way.

When the story of CAFTA is written – whether it passes or fails – the theme will be the politics of the last minute. Because even as we bring this bill to the floor, parts of the CAFTA package are still being negotiated. We need to do better.

The Founding Fathers in their wisdom assigned primary responsibility for trade policy to the legislative branch. Article I, section 8, clause 3 of the Constitution states that: “The Congress shall have the power . . . to regulate Commerce with foreign Nations.”

It quickly became obvious; however, that Congress is a body ill-suited by its structure to negotiate trade agreements. So our predecessors quickly figured out that the actual negotiating would have to be delegated to the executive branch.

Still, the constitutional responsibility for trade remains with Congress. That is why, under United States law, no trade agreement is self-executing. Trade agreements like CAFTA have no force or effect on domestic law until Congress passes implementing legislation.

A system where one branch of government negotiates trade agreements and another must approve them and turn them into domestic law presents many challenges. To work well, it requires the highest degree of coordination between executive and legislative priorities.

Over the years, this system of shared responsibilities has been formalized into a set of procedures commonly called “fast-track” or, more recently, “trade promotion authority.” These procedures require the executive to negotiate agreements that meet a long list of Congressional

priorities. And they require very close consultation between the executive and Congress at every stage of the process.

I am sure that Ambassador Portman and his staff can document that they followed these statutory procedures to the letter for CAFTA. I do not disagree.

The problem is that process for the sake of process does not work if there is no true spirit of cooperation. A statute can require a meeting. But a meeting of minds cannot be mandated by law.

A true meeting of the minds is what we need to make the consultative process work the way it is intended to work. Congress and the executive need to be working closely together at every stage of a trade negotiation to make sure that everyone's priorities are being addressed. Unfortunately, that is not what happened with CAFTA.

Early on in the CAFTA negotiations, I could see that sugar was going to be a difficult issue. So I asked the former USTR, Ambassador Zoellick, to meet with the Senate sugar caucus. That meeting was not required by TPA. But it made sense to try to address a difficult issue as soon as possible. The meeting took place and views were exchanged. But there was no meeting of the minds and little attempt to continue the dialogue.

Not surprisingly, CAFTA's sugar provisions were unacceptable to many Members. But CAFTA sat unchanged for more than a year.

Suddenly, last week, there began a series of round-the-clock sugar negotiations. Those negotiations were ongoing this morning, when the Finance Committee marked up CAFTA. They are still ongoing as we speak. So those of us who have sugar producers in our states still do not know for sure what CAFTA means for our constituents. This should have been resolved months ago. We should not be here on the floor debating an implementation package that is not final.

The story is similar for labor. From the beginning it was clear that labor rights were going to be a contentious issue in CAFTA. So I, together with a number of colleagues, began a dialogue with Ambassador Zoellick. We sought assurances that CAFTA's labor provisions would be stronger than those in other recent free trade agreements. Little progress was made.

Suddenly, within the past few weeks, there began a series of round-the-clock meetings between Ambassador Portman and several Democratic Senators and Congressmen. Just this morning, as the Finance Committee came together to vote on CAFTA, brand new labor and capacity building provisions were revealed. We should not be here on the floor debating CAFTA when the ink is not yet dry on these provisions.

I know there is another way. I have seen it work. In the fall of 2003, I put out a series of proposals for strengthening CAFTA's environment chapter. Ambassador Zoellick and I had a productive, year-long dialogue on these issues. With commitment on both sides, we agreed on key improvements that are included in the text of the agreement.

This is the model I want to follow in the future. Not the last-minute deal-making, but the long and thoughtful dialogue.

Trade Promotion Authority expires in 2007. At that time, Congress will consider whether there are ways to improve the process. The truth is, the process is only as good as the good will of the people using it.

I do not say this to lay blame. We are all responsible. Members are caught up in the press of business and do not always focus on their priorities early enough in the trade negotiation process. The executive hears but does not always follow the advice it receives from Members.

Still, in the end, our trade policy is only successful when it reflects the priorities of both Congress and the executive. In the coming months and year, let us rededicate ourselves to the purpose behind the process. Let us work together and truly mean it. That is the way to get things done. Thank you, Mr. President, I yield the floor.