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MEMORANDUM

To: Reporters and Editors
Fr: Jill Gerber, 202/224-6522
Re: trade agreement
Da: Friday, July 26, 2002

Late last night, Rep. Bill Thomas, chairman of the House Ways and Means Committee, and chairman of the House-Senate trade conference, and Sen. Max Baucus, chairman of the Committee on Finance and a trade conferee, announced an agreement on landmark legislation to grant the President Trade Promotion Authority. Sen. Chuck Grassley, ranking member of the Committee on Finance and a conferee, made the following comment on that announcement.

“Everybody's tired of bad economic news. This is a real bright spot. When the agreement passes, it'll help us out of any economic ditch and on to high ground. It's time to get this done.”

Following are summaries of the trade agreement prepared by Sen. Grassley's staff.

Bipartisan Trade Promotion Authority Act of 2002
July 26, 2002

The Bipartisan Trade Promotion Authority Act of 2002 (the “Bipartisan TPA Act”) provides the President with the flexibility he needs to negotiate strong international trade agreements on behalf of U.S. workers and farmers while maintaining Congress' constitutional role over U.S. trade policy. It represents a thoughtful approach to addressing the complex relationship between international trade, worker rights, and the environment without undermining the fundamental purpose and proven effectiveness of Trade Promotion Authority procedures.

Specifically, the Bipartisan TPA Act:

- Gives the Administration the authority to negotiate and bring back trade agreements to Congress that will eliminate and reduce trade barriers relating to manufacturing, services, agriculture, intellectual property, investment, and e-commerce
- Supports eliminating subsidies that decrease market opportunities for U.S. agriculture or unfairly distort markets to the detriment of the United States, with special emphasis on biotechnology, ending unjustified barriers not based on sound science, and fair treatment for import-sensitive agriculture

- Preserves U.S. sovereignty while enabling new trade agreements that will create solid economic growth, improve efficiency and innovation, create better, high-paying jobs for hard-working Americans, and increase the availability of attractively priced products in the U.S. market
- Adds a trade negotiating objective on labor and environment to:
 - ensure that the party to the agreement does not fail to effectively enforce its labor and environment laws, through a sustained or recurring course of action or inaction, recognizing a government retains certain discretion;
 - strengthen capacity to promote respect for core labor standards and to protect the environment;
 - reduce or eliminate government practices or policies that unduly threaten sustainable development; and
 - seek market access for U.S. environmental technologies, goods, and services
- Adds a new negotiating objective on enforcement, giving labor and environment disputes covered by the agreement parity with other issues in the trade agreement.
- Modifies and retains Senate-passed provisions on foreign investment to address concerns relating to the investor-state dispute settlement process.
- Modifies and retains Senate-passed negotiating objective on small business to ensure that trade agreements afford small business strong access to international markets and reduce barriers to small business exports.
- Modifies and retains the Senate-passed provision calling for negotiators to respect the Declaration on the Trips Agreement and Public Health, adopted at the World Trade Organization Doha Ministerial.
- Modifies and retains Senate-passed provision establishing a principal negotiating objective for U.S. exports of textiles.
- Modifies and retains Senate-passed provision establishing a principal negotiating objective concerning the worst forms of child labor.
- Contains negotiating objectives on investment to increase transparency for dispute settlement process, calls for standards for expropriation and compensation that are consistent with United States legal principles and practice, and eliminates frivolous claims.

Trade Remedies

- Drops the Dayton-Craig amendment regarding trade remedy laws.
- Makes preserving the ability of the United States to enforce rigorously its trade remedy laws a primary negotiating objective. Includes provisions directing the president to address and remedy market distortions that lead to dumping and subsidization.
- Requires the President to transmit a report to the House Ways and Means and the Senate Finance Committee at least 180 days before signing a trade agreement regarding proposals advanced in

negotiations which could change U.S. trade remedy laws and which may be in the final agreement and how those proposals are related to the principal negotiating objectives in the Bipartisan Trade Promotion Authority Act. Upon receipt of report any member of Congress can introduce a non-binding resolution of disapproval. There can be only one disapproval resolution per agreement. The resolution, once reported from the Committee on Ways and Means and Rules or Finance, is privileged.

- Requires the Secretary of Commerce, with the Secretaries of State and Treasury, the Attorney General, and the United States Trade Representative, to transmit a report to Congress setting forth the strategy of the executive branch to address Congressional concerns regarding dispute settlement panels of the WTO and Appellate Body
- Sets forth other Presidential priorities, not covered by TPA, including greater cooperation between WTO and the ILO, and consultative mechanisms among parties to trade agreements and to strengthen the capacity of U.S. trading partners to promote respect for core labor standards the environment, technical assistance on labor issues, and reporting on the child labor laws of U.S. trading partners.
- Directs the President to take into account legitimate health, safety, essential security, and consumer interests
- Expands and improves consultations between the Administration and Congress, before, during, and after trade negotiations and in the development of an implementing bill.
- Creates a Congressional Oversight Group to enhance consultations with the Congress.

Trade Adjustment Assistance Reform Act of 2002

- *Re-authorizes* the Trade Adjustment Assistance program through **September 30, 2007**.
- Consolidates TAA and the NAFTA-TAA program.
- *Shortens* the time in which the Secretary of Labor must consider petitions from workers from **60 days** (current law) to **40 days**.
- *Provides TAA* to **secondary workers** that supply directly to another firm component parts for articles that were the basis for certification of eligibility.
- *Provides TAA* coverage to **downstream workers** who are impacted by trade with **Mexico** and **Canada**.
- *Provides TAA* coverage to **workers** whose **firm shifts production** to another country that has a *free trade agreement* with the United States, that has a *preferential trading arrangement* with the United States, or there has been or is likely to be an *increase in imports* from that country.
- *Extends* the maximum *timetable* during which a worker may receive **trade adjustment allowances from 52 to 78 weeks**.

- Extends the permissible duration for breaks in training to thirty days.
- *Provides* an additional **26 weeks** of *income support* for workers requiring *remedial education*.
- *Increases* the authorized amounts available for *worker training* from **\$140 million** to **\$220 million**.
- *Increases* maximum *job search* allowance from **\$800** per worker to **\$1,250** per worker.
- *Increases* maximum *relocation* allowance from **\$800** per worker to **\$1,250** per worker.
- *Creates* a *two-year* demonstration project for *Alternative Trade Adjustment Assistance* for *Older Workers*.
- *Provides advanceable, refundable tax credit* for the purchase of specified qualified *health insurance*. The *credit* is set at **65%**, *uncapped*, and can be used to *subsidize* the cost of *company-based (COBRA)* or *pooled health insurance policies*, and for *individual insurance* in instances where workers had purchased such a policy in the one month prior to job loss.
- *Provides seed and support money* for state *high risk pools*, and *authorizes National Emergency Grant funds* to assist workers with health insurance costs on an interim basis.

SUMMARY OF H.R. 3009, THE ANDEAN TRADE PROMOTION AND DRUG ERADICATION ACT

President to proclaim duty-free treatment for particular articles which were previously excluded from duty-free treatment under the ATPA, if the President determines that the article is not import-sensitive in the context of imports from beneficiary countries.

Authorizes the President to consider Bolivia, Ecuador, Colombia, and Peru as beneficiary countries. Designation of a country as a beneficiary country of current ATPA benefits is subject to certain conditions, unless the President exercises national economic or security interest waiver authority. The President must also take into account additional other factors in designating countries as beneficiaries for current ATPA benefits.

Applies duty-free treatment to any article eligible under the existing ATPA framework that meets specified rule-of-origin requirements, including a minimum 35 percent Andean content (which may include content from CBI beneficiary countries, Puerto Rico and the U.S. Virgin Islands, and up to 15 percent of U.S. content).

Apparel Articles

Duty- free and quota free treatment would be accorded to: 1) apparel articles assembled or knit-to-shape and assembled in 1 or more beneficiary countries from yarns, fabrics, or components, including knit-to-shape components, wholly produced in the United States or in 1 or more beneficiary countries. (Imports of apparel made from regional fabric and regional yarn would be

capped at 3% of U.S. imports growing to 6% of U.S. imports in 2006.); and 2) apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary countries, from fabrics or yarn not produced in the United States, to the extent that apparel articles of such fabrics or yarn would be eligible for preferential treatment, without regard to the source of the fabrics or yarn, under Annex 401 of the NAFTA (short supply provisions).

Authorizes the President to grant duty-free treatment for Andean exports of tuna packed in flexible, airtight containers; retains U.S. or Andean flagged vessel rule of origin requirement; updates calculation of current MFN tariff-rate quota to permit additional tuna exports from other nations, including non-Andean nations, to enter the United States below tariff-rate quota.

Transshipment

- Provides trade benefits if the beneficiary country adopts laws and procedures to prevent illegal transshipment, including enacting laws to assist Customs' enforcement efforts and cooperating with Customs. Under a "one strike and you are out" provision, if an exporter is determined to have engaged in illegal transshipment of textile and apparel products from an Andean country, the President is required to deny all benefits under the bill to that exporter for a period of two years. Transshippers are subject to treble charges to existing textile and apparel quotas.
- Requires that apparel made of U.S. knit or woven fabrics assembled in an Andean beneficiary country qualifies for benefits only if the U.S. knit or woven fabric is dyed and finished in the United States.
- Establishes textiles and apparel safeguard provisions.

Reports by the International Trade Commission and the Secretary of Labor on the Impact of the Bill

- Requires the U.S. International Trade Commission (ITC) to submit an annual report to the Congress on the economic impact of the bill on U.S. industries and consumers and the effect of duty-free treatment on drug-related crop eradication and crop substitution by beneficiary countries.
- Requires the Secretary of Labor to make an annual report to Congress on the results of a continuing review of the impact of the bill with respect to United States labor.

Termination of Duty-Free Treatment

Terminates duty-free treatment under the Act on December 31, 2006.

Amendments to Caribbean Basin Trade Partnership Act (CBTPA) and the Africa Growth and Opportunity Act (AGOA)

- Draft regulations issued by Customs to implement P.L. 106-200 stipulate that knit-to-shape garments, because technically they do not go through the fabric stage, are not eligible for trade benefits under the act.
 - Sec. 5 of H.R. 3009 amends AGOA and CBERA to clarify that preferential treatment is provided to knit-to-shape apparel articles assembled in beneficiary countries.

- With respect to apparel articles that are cut both in the United States and beneficiary countries (the so-called “hybrid cutting problem”), the draft Customs regulations deny preferential access to these garments, on the rationale that the legislation does not specifically list this variation in processing.
 - Sec. 5 of H.R. 3009 adds new rules in CBTPA and AGOA to provide preferential treatment for apparel articles that are cut both in the United States and beneficiary countries.
- P.L. 106-200 extends duty free and quota free benefits to apparel made in Africa from regional fabric made with regional yarn, up to a cap ranging from 1.5 to 3.5 percent over eight years. P.L. 106-200 includes within this cap duty-free and quota-free benefits for 4 years to apparel made in Africa from third country fabric by any least-developed African country (defined as a country with per capita GNP below \$1500).
 - Sec. 5 of H.R. 3009 would double this cap to range from 3 to 7 percent over eight years.
- Allows Namibia and Botswana to use third country fabric for the transition period under the AGOA regional fabric country cap.
- Raises the cap for duty-free benefits to knit apparel made in CBI countries from regional fabric made with U.S. yarn and to knit-to-shape apparel (except socks), to the following amounts: 250,000,000 SMEs for the 1-year period beginning October 1, 2001; 500,000,000 SMEs for the 1-year period beginning on October 1, 2002; 850,000,000 SMEs for the 1-year period beginning on October 1, 2003; 970,000,000 SMEs in each succeeding 1-year period through September 30, 2009.