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1 EXECUTIVE COMMITTEE SESSION
2 WEDNESDAY, MARCH 18, 1987
3 U.S. Senate
4 Committee on Finance
5 Washington, D.C.

6 The committee met, pursuant to notice, at 9:50 a.m. in
7 room SD-215, Dirksen Senate Office Building, the Honorable
8 Lloyd Bentsen (chairman) presiding.

9 Present: Senators Bentsen, Matsunaga, Moynihan, Baucus,
10 Riegle, Rockefeller, Daschle, Packwood, Roth, Danforth,
11 Chafee, Heinz, Wallop and Durenberger.

12 Also present: The Honorable Michael Smith, Deputy USTR.

13 Also present: Bill Wilkins, Staff Director; Mike
14 Mabile, Trade Counsel, Majority; Jeff Lang, International
15 Trade Counsel; and Josh Bolten, Trade Counsel.

16 (The press release announcing the session follows:)

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1 The Chairman. The committee will come to order.

2 We will not be able to proceed on the voting out of
3 the resolutions at this time. We will watch the point in
4 the hearings where we have a quorum, and then we will move
5 back to them.

6 But, in order to try to save some time here, and
7 because we do have such a crowded agenda, I would like to
8 now recognize Senator Durenberger to discuss his resolution,
9 which I understand has some modifications that have been made
10 to it.

11 Senator Durenberger. Mr. Chairman, I thank you very
12 much. And I hope I'll be here for the vote. I have a
13 commitment at 10:30 that is going to take a half-hour or so,
14 and I hope to be back.

15 The Chairman is correct, and I congratulate him for
16 his judgment last Friday when he suggested that we might
17 put this issue over for a few days, so that we might find
18 a more appropriate way to deal with that.

19 In the intervening period of time, I had the coincidence
20 of a call from the Canadian Ambassador to the United States,
21 and he came over and visited with me. And I gave him an
22 opportunity to visit with a group of Minnesota corn growers,
23 and --

24 (Laughter)

25 Senator Durenberger. -- it turned out to be a very

1 interesting exchange. And I thought the Ambassador acquitted
2 himself well on what I would have considered flimsy grounds.

3 But, it illustrated -- that meeting and, I think, our
4 discussion here the other day -- illustrated the quandry
5 that we in the public policy area find ourselves in. And,
6 Ambassadors like Senators, sometimes find themselves in the
7 middle of debates that at best they can stimulate or
8 mollify, as the case may be, but it is very difficult to
9 resolve.

10 The original resolution that I introduced two weeks
11 ago, Resolution No. 27, would have required the U.S. Trade
12 Representative or the Secretary of Commerce to initiate
13 certain actions against the action taken by the Canadian
14 import tribunal earlier this month.

15 The modification of that resolution, Mr. Chairman and
16 my colleagues, I think makes more sense -- and many of you
17 have agreed to that in advance. The resolution now provides
18 that the United States Trade Representative shall immediately
19 initiate an expedited investigation under Section 305 of
20 the Trade Act of 1974, to determine whether the decision of
21 the Canadian Import Tribunal is inconsistent with Canada's
22 obligations under the General Agreement on Trade and Tariff.

23 But no later than 30 days after the commencement of
24 the 305 investigation, the USTR shall issue its findings;
25 and if the findings of the investigation determine that the

1 Canadian Import Tribunal's decision may have been
2 unjustifiable or inconsistent with Canada's obligations
3 under the GATT within the meaning of Section 301(a)(1)(B)
4 of the Trade Act, then the USTR shall initiate an expedited
5 Section 301 investigation.

6 Though, Mr. Chairman, I would recommend that we adopt
7 this resolution. I think rather than stimulating
8 retaliatory action immediately -- which my first resolution
9 did -- this one suggests that we go through the process of
10 investigating the basis on which the Canadian Tribunal made
11 the decision, to determine whether that might be in violation
12 of Canada's obligations under the GATT, and if so, then
13 proceed with a 301(c) investigation.

14 I would recommend that to my colleagues

15 The Chairman. Senator Durenberger, I appreciate the
16 work you have done in trying to arrive at a consensus and
17 some compromise, but protecting your objective, and yet with
18 a great concern for our relationship with our neighbor on
19 the north. I know that the Senator from New York had some
20 concern with that regard and was contemplating a resolution
21 of his own.

22 I would like to yield now to the Senator from New York
23 for any comments he might have.

24 Senator Moynihan. Mr. Chairman, I would like to join
25 in expressing my appreciation to Senator Durenberger. I

1 think the proposal he makes now is a perfectly sensible one,
2 and it is in accordance with the procedures of our Trade
3 Representatives, and in no way decides the case in advance.
4 It puts the case up to be decided.

5 It was in that context that I put before the committee,
6 Mr. Chairman, S. Res. 50, which I had introduced on the
7 first day of this Congress in a somewhat different context,
8 which was not very clear how well our negotiations with
9 Canada were moving -- this is January 3, the turn of the
10 year.

11 We had a very narrow vote in this committee. Only on
12 a tie vote was the President given the opportunity to go
13 forward. And what began as a large initiative, suddenly
14 looked like it had diminished, and it almost had failed to
15 even begin.

16 Since our meeting last week -- of this committee --
17 there have been a series of events, which may have been
18 influenced by that meeting. On Monday, on Tuesday, reports
19 appeared in the press of the decisions -- I mean, a progress
20 report came out from the negotiators.

21 And I'll just read the headline in the New York Times,
22 which I happened to read at the time, "U.S. and Canadians
23 Optimistic on End to Trade Barrier Make Progress in Talks.
24 Officials Say Broad Outlines of Pact are Emerging. Visit
25 by Reagan is Set."

1 I make two, I make three quick points. The first is,
2 now, if I say it to the point of being tedious with members
3 of the committee, I hope there are even so persons outside
4 the committee who will hear.

5 The United States has more trade with the Province of
6 Ontario than it does with Japan. It is absolutely, without
7 question, the most important other country to us in the
8 world.

9 The second point is that the pattern of this
10 negotiation is going to, for the first time, genuinely
11 to concentrate on the issues of unfairness of trade and
12 services, of investment property and intellectual --
13 investment services and intellectual property -- those
14 things which we have never really been able to get our
15 holds, a purchase on, in a worldwide GATT negotiation.

16 We keep talking about it, but it doesn't happen. The
17 Canadians want it to happen; we want it to happen. We can
18 set a pattern here for how it happens.

19 And lastly, I'm sorry, two other things. One, Mr.
20 Mulroney began a two-day debate in the House of Commons in
21 Ottawa on this subject on Tuesday -- the anniversary of
22 St. Patrick's Day -- of his meeting in Ottawa with the
23 President last year.

24 It was a very positive debate. It's not anymore
25 one-sided there than it is here. It is just my view of the

1 responsible, and in any event the heads of government in
2 both of those countries, want this to go forward and it
3 appears to be doing.

4 Finally, the President will be visiting Canada in May,
5 and I hope he does with the sense that this committee is
6 behind him in ways that it wasn't entirely, until now.
7 I think Senator Durenberger's resolution is exactly in that
8 spirit. If we have an argument, settle it through process,
9 and not through what you might just say is a direct
10 legislative decision.

11 And therefore, Mr. Chairman, my resolution was not
12 introduced with any specific intent that it counter any
13 other measure. It was only in that context that I offered
14 it last week. And in the setting I'd like to withdraw it,
15 I'd like some day to see us adopt this in a spirit of
16 encouragement, if there seems to be some flacking in some
17 future point.

18 The Chairman. Thank you, Senator. I know there is
19 much more that could be said on this issue, but if I've
20 appeared just a little bit nervous, it's because I've been
21 watching the numbers that I have here. And we went through
22 this exercise a week ago. And with the shifting numbers
23 and the demands on the committee members at other committees,
24 we had an extremely difficult time holding a quorum.

25 And I would like to move on this, and we have two other

1 resolutions. Now, if someone just feels that it is imperative
2 that they comment, well we, of course, would refer to them.

3 Senator Chafee. Mr. Chairman?

4 The Chairman. Senator Chafee.

5 (Laughter)

6 Senator Chafee. I think this is fairly serious
7 business. It is my understanding, could I ask one of the
8 experts at the desk there, that if Canada's actions are
9 contrary to GATT, then the procedure is to go to GATT.
10 Isn't that correct?

11 Mr. Lang. Under this resolution, Senator --

12 Senator Chafee. No, not under this resolution; under
13 the GATT procedures.

14 Mr. Lang. Maybe the Administration would want to
15 answer that question. Ambassador Smith is here this
16 morning.

17 Ambassador Smith. Senator, that would be the normal
18 procedure of GATT.

19 Senator Durenberger. Let me ask you. It's not
20 required is, if you will yield, it's not required to GATT.
21 There's no obligation to take this through the GATT process,
22 even though you have two signatories involved.

23 Ambassador Smith. I would think there would be an
24 obligation to go to the GATT.

25 Senator Durenberger. Can you cite the specific

1 obligation in the law?

2 Ambassador Smith. For both members of the subsidy
3 code, which would require state disputes regarding matters
4 such as, in this case to the GATT, to the subsidies code
5 committee of the GATT.

6 Senator Chafee. So what we're doing here, Mr.
7 Chairman, is saying that we belong to GATT, Canada belongs
8 to GATT; but, by this resolution, we're just saying no,
9 we're not going to observe one of those, the steps that
10 are required under GATT, and we're taking a different route.

11 I think we ought to make up our minds around here.
12 Are we for GATT; do we belong to it? And, do we want it
13 honored? In the lumber countervailing situation, Canada
14 went through GATT. Now, subsequently, the matter was
15 settled by negotiation. But, am I not correct, Mr. Smith,
16 Canada went through GATT?

17 Ambassador Smith. That is correct, sir.

18 Senator Chafee. So, therefore, Mr. Chairman, I think
19 it's a mistake to proceed with this resolution.

20 The Chairman. Mr. Lang, do you have any comment
21 concerning this resolution?

22 Mr. Lang. The resolution provides that if the
23 preliminary findings of the investigation determine that
24 the Canadian action is inconsistent with Canada's
25 obligations, then the Administration is to proceed under

1 Section 301. One of the Administration's options, as I
2 understand it under Section 301, would be to go to the
3 GATT. And, therefore, I'm not sure I agree with Senator
4 Chafee's interpretation.

5 The Chairman. Yes.

6 Senator Chafee. Well, under the GATT, you don't go to
7 something that you take an option on, whether you go or not
8 go. The correct procedure, am I not correct, Mr. Smith,
9 is you go to the GATT for the resolution.

10 Ambassador Smith. That's correct.

11 Senator Chafee. Now, subsequently, after that, you're
12 not satisfied, then you can proceed with the 301. Am I not
13 correct?

14 Ambassador Smith. That's correct.

15 Senator Chafee. So that Mr. Lang isn't quite correct
16 when he says, well, we're going to a 301, and that gives us
17 the option to go back to GATT, but it gives us the option
18 not to also. So, am I not correct, Mr. Lang, in saying
19 that this is circumventing the GATT procedures?

20 Mr. Lang. Maybe Ambassador Smith would want to comment
21 on it, but normally the way we go to GATT is through a
22 Section 301 investigation.

23 Senator Chafee. Yes, but you don't have to go under
24 that. Mr. Chairman, I think we're making a mistake to,
25 just to cavalierly adopt resolutions like this. As I said

1 last week, I consider this a very responsible committee,
2 whose actions cause echoes really around the world. And
3 I think we ought to proceed very carefully on matters such
4 as this.

5 The Chairman. Are there further comments?

6 (No response)

7 The Chairman. We have a resolution before us. All
8 in favor of the resolution, make it known by saying "aye"

9 (A chorus of "ayes")

10 The Chairman. Opposed?

11 (A chorus of "noes")

12 The Chairman. The "ayes" appear to have it. The
13 "ayes" have it.

14 The second resolution that we --

15 Senator Moynihan. Mr. Chairman, might I then formally
16 request that my earlier proposal of S. Res. 50 be withdrawn?

17 The Chairman. Without objection, that will be done.

18 The other resolution that we had considered, and for
19 which we did not have a quorum on the vote, was that of
20 Senator Wilson, co-sponsored by a number of members of this
21 committee, calling on the President to respond to the
22 violations by Japan of the U.S.-Japan agreement on
23 semiconductors.

24 We discussed that one at some length. Is there any
25 desire to have further discussion at this point? If not,

1 the resolution is before us. All in favor of that
2 resolution, make it known by saying "aye".

3 (A chorus of "ayes")

4 The Chairman. Opposed by similar sign.

5 (No response)

6 The Chairman. Motion is carried.

7 We had a further resolution that was discussed a week
8 ago by Senator Danforth, expressing the sense of the Congress
9 in opposition to the proposal by the European Community to
10 establish a tax on vegetable and marine fats and oils and
11 urging the President to take a strong and immediate
12 countermeasure should such a tax be implemented. Senator
13 Danforth.

14 Senator Danforth. Mr. Chairman, thank you very much.
15 This resolution was discussed, I think of sufficient length,
16 last week. It simply expresses the sense of the Congress
17 that the Administration did oppose vigorously the proposed
18 tax by the European Community on vegetable oils; and that
19 the imposition of such tax would be met with immediate
20 retaliation.

21 The tax that has been proposed is a 90 percent tax,
22 90 percent of the current price of soybeans. Yet, directly
23 as the largest source of exports of soybeans we have in the
24 United States is the European Community, the tax would be
25 used, if put in place, by the European Community to finance

1 subsidies under the common agricultural policy for fats and
2 oils.

3 It would raise annually \$2.3 billion for the purpose
4 of financing the European Community's subsidy. It is
5 interesting that the proposed tax was announced less than
6 three weeks after the settlement, very controversial
7 settlement, of what many feared would be the biggest trade
8 war that is currently on the horizon.

9 We felt that we had a settlement with the European
10 Community on agricultural matters relating to the accession
11 sustained in Portugal to the European common market.

12 But, within less than three weeks, the proposal was
13 made to impose a 90 percent tax on vegetable oil. Now, last
14 week during discussion of this issue, Senator Chafee raised
15 the question as to the Administration's position. And, at
16 that time there was no one from the Administration who was
17 able to speak for the Administration with respect to the
18 resolution. And today, Ambassador Smith is with us, and I
19 wonder if he could address this issue?

20 The Chairman. Let me first intervene for just a moment,
21 and I'm delighted to have Ambassador Smith here. We had
22 something happen last week at this time, as we were discussing
23 the authorization for Customs and for the trade organizations,
24 where we had, the Administration had a witness here to
25 testify as to the authorizations that were on the agenda.

1 But, we had some resolutions come up, this one amongst
2 them, where we had not the prior notification. Now,
3 traditionally in this committee, what we have had is
4 advising the committee and its staff of those items that
5 would be on the agenda and giving two-days notice in that
6 regard.

7 I would hope very much that we could continue to
8 follow that procedure. That gives the members a chance to
9 evaluate such resolutions, give some thought to them, and
10 in turn, it gives us a chance to get, if we need
11 Administration witnesses there for that purpose. We have
12 followed informal procedures in the past, because what we
13 have sought is to try to get it through consensus of the
14 desires of this committee.

15 And I want to continue to follow those kinds of
16 procedures. But, it will be of great help if you can comply
17 with a two-day notice to us, so we can get it on the agenda
18 and give it the appropriate and proper consideration at the
19 time that it comes up, and that we have Administration
20 witnesses, if that is necessary.

21 Let me also make a point that we distribute to the
22 press from 75 to 100 copies of these amendments or these
23 resolutions at the meetings. And if those things are brought
24 to us in their final form at the last minute, we have a very
25 difficult time complying with that. So, if you'll have your

1 staffs do some of that work and bring those here, that would
2 be a great help. Otherwise, if you'll give those things to
3 us in their final form early enough, we will be able to make
4 a distribution that will be helpful to us.

5 Senator Packwood. Could I speak, please, Mr. Chairman?

6 The Chairman. Yes.

7 Senator Packwood. I wholeheartedly agree with the
8 Chairman. And for those that will make the argument, well
9 this is an unfair power in the hands of the Chairman; he
10 knows everything that's coming. That is simply not true.
11 I know Bill Wilkins and his predecessor, Bill Diefendorfer,
12 worked this out very well last year, and very seldom did
13 we have an amendment during that entire tax reform bill
14 come up -- major amendment -- that we didn't know about.

15 This clearly doesn't mean that while we're working on
16 something and somebody has a better idea while we're on
17 an amendment they can offer it, and of course we can adopt
18 it. But, it does prevent all of us from being blind sided
19 by some out-of-the-blue amendment that none of us knew
20 anything about and have no chance to reflect on or get any
21 information on.

22 And I think what the Chairman has suggested is
23 excellent and I hope the committee goes along with it.

24 The Chairman. And let me say, thank you very much,
25 Senator Packwood. And let me say, that I want to work with

1 you, as Senator Packwood did and the previous Chairman had,
2 to get these things on the agenda and at the appropriate
3 time. And, as we have stated, that does not preclude
4 bringing up something that we did not anticipate, but it
5 may be that we will not be able to act on it at that time,
6 but we will try to accommodate you if we can.

7 But, it must be understood that it's more difficult
8 to try to achieve a consensus, and people can't make a
9 point of order in the event that we have not had prior
10 notice to it.

11 Now with that, Mr. Ambassador, if you would proceed.
12 We're delighted to have you here.

13 Ambassador Smith. Thank you, Mr. Chairman. The
14 Administration supports the resolution Senator Danforth
15 referred to.

16 The Chairman. Are there further questions concerning
17 the resolution? If not, all in favor make it known by
18 saying "aye".

19 (A chorus of "ayes")

20 The Chairman. Opposed?

21 (No response)

22 The Chairman. The resolution is adopted.

23 Now, we'll proceed to the hearing that we had
24 scheduled at 10:00.

25 (Whereupon, at 10:15 a.m., the session was concluded.)

C E R T I F I C A T E

This is to certify that the foregoing proceedings of an Executive Committee Meeting of the United States Senate Finance Committee, held on Wednesday, March 18, 1987, were transcribed as herein appears and that this is the original transcript thereof.

William J. Moffitt
WILLIAM J. MOFFITT
Official Court Reporter

My Commission expires April 14, 1989.