

1 EXECUTIVE COMMITTEE SESSION  
2 WEDNESDAY, MARCH 11, 1987  
3 U.S. Senate  
4 Committee on Finance  
5 Washington, D.C.

6 The Executive Committee session was convened, pursuant  
7 to notice, at 9:40 a.m. in Room SD-215, Dirksen Senate  
8 Office Building, the Honorable Lloyd Bentsen (chairman)  
9 presiding.

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

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

17 Also present: Mr. Michael Doyle, U.S. Trade Representa-  
18 tive, Assistant U.S. Representative for Administration.

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1           The Chairman. This morning the committee wil have its  
2 markup on the bill for appropriations for the three  
3 international trade agencies. We are speaking of the  
4 Customs Service, the U.S. Trade Representative, and the  
5 International Trade Commission.

6           As has been the case for a number of years, the  
7 President's budget for one of these agencies, the Customs  
8 Service, proposes some drastic cuts in funding and manpower.  
9 The Administration intends to cut 2,000 personnel positions  
10 from those authorized by the Congress just last year.

11           In three days of committee hearings this year on the  
12 Customs Service, it has become painfully clear that the  
13 policy calling for these cuts is both shortsighted and  
14 unacceptable. It is shortsighted in its continued  
15 assumption that these cuts are a means to trim our federal  
16 deficit.

17           The facts are that for every dollar that we spent on  
18 the Customs Service, as a revenue-producing agency, it  
19 produces \$17.00. It is unacceptable because the Customs  
20 Service is in danger of losing altogether its ability to do  
21 the job that the public expects of it.

22           At our hearings, witnesses confirmed that employee  
23 morale is low, and the Service's core of knowledgeable,  
24 experienced mid-career employees is being driven off. We are  
25 told that at least 65 percent of all import entries now come

1 in without any review to determine the appropriate  
2 classification or duty, and that only 2 percent of all  
3 imports receive physical inspection of even the most  
4 rudimentary kind.

5 Now when you are missing that much of the flow that is  
6 coming in, and it is not having surveillance, you could  
7 imagine how much is escaping any kind of a tariff or duty  
8 being imposed.

9 The Administration tells us though that increased  
10 automation is making it possible to do more work with less  
11 people, to get more bang for the buck. I think all of us  
12 support efforts to streamline the Service and to do as much  
13 automation as is practical. Computers can help to do the  
14 job more efficiently, but I don't think they can replace  
15 people to the extent that the Administration is proposing.

16 A machine has trouble inspecting goods. It cannot  
17 classify imported merchandise, and it cannot fly an airplane  
18 in the war against drugs. Only people can really do those  
19 things, and no Administration spokesman has yet demonstrated  
20 that any of these tasks can be adequately done at present  
21 with fewer people.

22 We had hearings along the Mexican border. We listened  
23 to tales of trucks and cars being backed up for 12-18 hours  
24 at a time because of some of the bottlenecks and the log  
25 jams, and the insufficient number of personnel to process.

1 We are told of people having to drive 240 miles--120-mile  
2 round trips--to go up to have some import specialist  
3 classify a piece of goods that could not be classified over  
4 a telephone.

5 The committee told the Administration last year that it  
6 is high time to get serious about the roles filled by the  
7 Customs Service. We have too much at stake. The lack of  
8 resources to process, classify and inspect imports endangers  
9 the credibility of our entire system of trade laws. The lack  
10 of resources to intercept and punish those who smuggle their  
11 illegal drugs into our country endangers our families, our  
12 schools and our children.

13 I believe the members of this committee are ready today  
14 to provide the Customs Service the resources to put its  
15 dedicated employees effectively back to work on these very  
16 important tasks.

17 And I yield to my distinguished colleague, Senator  
18 Packwood.

19 Senator Packwood. No statement, Mr. Chairman. I am  
20 ready to go.

21 The Chairman. Would any other member care to comment at  
22 this point?

23 Senator Armstrong. Mr. Chairman, I don't have any  
24 opening statement, but I will have amendments which I want  
25 to speak on at some length on the Customs budget.

1       The Chairman. We would be delighted to receive it at  
2 the appropriate time then.

3       I would like to propose an amendment to create a private  
4 sector committee to advise the Customs Service on commercial  
5 operations.

6       In hearings before the committee, I think it became clear  
7 as we progressed that the Agency is beginning to lose touch  
8 with people that are involved in the processing of getting  
9 these goods into the country and out of the country. I  
10 believe that the management of the Service could be greatly  
11 improved by application of the expertise and suggestions of  
12 knowledgeable members from the private sector. And then we  
13 would structure this advisory committee in a way of  
14 guaranteeing that interested persons would get the ear of  
15 the Customs Service and get a chance to communicate.

16       It would be a committee that would be chosen from the  
17 various sectors of private life that are involved in the  
18 transmission of these goods, and would be chosen by the  
19 Secretary of the Treasury, with the advice of the Assistant  
20 Secretary of the Treasury for Enforcement. The Secretary  
21 would be instructed to choose people from a variety of those  
22 affected by Customs Service operations and from both  
23 political parties, and that committee would consist of some  
24 20 people.

25       Under the Federal Advisory Committee Act, such

1 committees ordinarily are subject to a sunset provision, and  
2 I would urge that we have one at the end of two years so we  
3 can have a chance to look at the operations of the  
4 committee and see if it is functioning as we would have  
5 anticipated it to have done. And I would urge the  
6 consideration of it by the committee.

7 Are there any comments concerning it?

8 Senator Packwood. I like it.

9 The Chairman. May I have a motion then that we adopt  
10 this?

11 Senator Baucus. I so move.

12 The Chairman. Is there a second?

13 Senator Durenberger. Second.

14 The Chairman. All in favor, make it known by saying  
15 "aye".

16 (Chorus of "ayes")

17 The Chairman. Opposed, a similar sign.

18 (No response)

19 The Chairman. I am proposing another amendment to add  
20 clarifying language regarding the customer user fees.

21 Congress intended, in enacting the customer user fee  
22 account, to make the fees offsetting receipts, not a new  
23 source of revenue. It was intended that the fees be  
24 available only for salaries and expenses for Customs'  
25 commercial operations. Moreover, it was intended that the

1 user fees on conveyances that are not needed to reimburse  
2 Customs for expenses incurred in providing overtime  
3 services be part of the general user fee account and be used  
4 for commercial operations.

5 The Office of Management and Budget, however, has not  
6 treated the user fees as offsetting receipts available only  
7 for commercial services, and has not treated the conveyance  
8 user fees in such a manner that fees not used for overtime  
9 expenses go for commercial operations. What they have done  
10 is treat them as revenues for the general fund.

11 So I would add the language to make it clear what the  
12 Congress had intended in the first place.

13 Is there objection to that language?

14 (No response)

15 The Chairman. If not, we will accept it.

16 I have another resolution that has been proposed by  
17 Senator Wilson, and he is joined in by a number of members of  
18 the Senate and members of this committee. It has--the last  
19 date I saw--Senators Mitchell, Danforth, Rockefeller, and  
20 myself. There may be others.

21 Senator Wilson has discussed this issue with me. It  
22 deals with the problems of the semiconductor agreement with  
23 Japan. As you recall, the Administration announced that  
24 agreement last June, and as a result, it suspended the then  
25 pending unfair trade practice case against Japan under

1 Section 301 and the antidumping law, which the domestic  
2 semiconductor industry had previously constituted.

3 The President at the time called it a historic  
4 agreement, a historic agreement. But several members of  
5 this committee--and I joined--together last September, in a  
6 letter to the President in which we said, unfortunately,  
7 experience from past trade agreements demonstrates that a  
8 lasting resolution of U.S.-Japan semiconductor trade  
9 friction would require an active, ongoing implementation  
10 program by the Administration with continuing support and  
11 review by the committee.

12 I think the time has now come for that. In Senator  
13 Wilson's resolution, I urged that it be referred to this  
14 committee, and that we would give it a very early hearing.  
15 And I think we have lived up to that commitment, since it  
16 was introduced last night and we are considering it this  
17 morning. I would urge that we report the resolution  
18 favorably.

19 Are there any questions?

20 Senator Baucus. Mr. Chairman.

21 The Chairman. Yes.

22 Senator Baucus. Mr. Chairman, I commend you for bringing  
23 this up at this time. I think it is important to remind  
24 ourselves how important all this is, because Japan has a  
25 very definite history of only acting to open up in many



1 areas, and particularly on semiconductors, when pushed,  
2 when given more than a nudge, but given a very strong,  
3 forceful action to encourage it to move.

4 The U.S. market share of the U.S. semiconductor industry  
5 firms in America is about 85 percent, the U.S. semiconductor  
6 firms' market share in the EEC is 53 percent, the rest of  
7 the world is 47 percent, and Japan, it is only 9 percent.  
8 We have to remind ourselves that in the 1960s, Japan had a  
9 25 percent tariff on imports of semiconductors. It also  
10 had a quota--a very strict quota--on semiconductor components  
11 coming into Japan. It was only after President Nixon pushed  
12 hard in the Kennedy round that Japan began to open up and  
13 generally liberalized a little bit on its borders so that the  
14 U.S. semiconductor industry could export into Japan.

15 The trouble is that with the semiconductor industry  
16 slump and the PC slump, Japan has begun to cartelize a little  
17 bit more. They are not living up to the semiconductor  
18 agreement that they negotiated with the United States. And  
19 the fact is that only if Japan is given a very strong push  
20 will Japan open up.

21 So I think that this resolution is very, very helpful.  
22 We shouldn't forget that Hutachi memorandum that encouraged  
23 dumping. About two years ago, as I recall, in 1985, a copy  
24 of that memorandum was circulated around this country, and  
25 it said, "10 percent below their U.S. competitive price.

1 If they requote, go 10 percent more. Don't quit until you  
2 win. A 25 percent distributor profit guaranteed." You  
3 know, if that doesn't indicate dumping, I don't know what  
4 does. And I think this resolution will help.

5 The Chairman. What the Administration is doing is  
6 urging Japan to come into compliance with the agreement by  
7 the end of the month, and I think we ought to do everything  
8 we can in our oversight to support the Administration in that  
9 effort. And that is what we are talking about with the  
10 Wilson resolution.

11 Are there any other comments?

12 (No response)

13 The Chairman. May we have a motion?

14 Senator Durenberger. I move the resolution.

15 The Chairman. Second?

16 Senator Baucus. Second.

17 The Chairman. All in favor of the motion, make it known  
18 by saying "aye".

19 (Chorus of "ayes")

20 The Chairman. Opposed?

21 (No response)

22 The Chairman. We are going to have to have a quorum to  
23 back that up when we get it.

24 Senator Armstrong?

25 Senator Armstrong. Mr. Chairman, I have an amendment

1 which has been distributed. I think every member now has a  
2 copy of it. The essence of this amendment is to simply put  
3 into the bill a finding that the Commissioner of Customs has  
4 reported to the Secretary of Treasury on the importation of  
5 five classes of merchandise from the Soviet Union for which  
6 there is reasonable, though not necessarily conclusive,  
7 evidence that these products were produced by forced labor,  
8 and, therefore, that the importation of these are  
9 prohibited unless for some reason the President wishes to  
10 waive that or wishes to make a finding that, in fact, they  
11 were not so produced.

12 Mr. Chairman, the background of it is this, that, as I  
13 think all Members know, the law forbids the importation of  
14 goods into this country that are produced by forced labor.  
15 This has been on the books for a long, long time, and has  
16 been periodically enforced against various countries,  
17 including the Soviet Union, in the past, and against  
18 Mexico, and so on.

19 I got interested into this problem in 1982. There was a  
20 lot of publicity then about forced labor. And so to try to  
21 determine exactly what was going on, I asked for a report.  
22 And, in fact, I introduced S. Res. 449, which was passed by  
23 the Senate in August of 1982, requesting the State  
24 Department to investigate this issue, and, in effect, to tell  
25 us the extent to which, if any, forced labor in the

1 Soviet Union was being used to produced goods moving into  
2 international commerce.

3 November of 1982, the State Department reported--and one  
4 sentence pretty well sums up what we all knew, but which I  
5 thought was important to have on the record in an official  
6 way--and I quote, "There is clear evidence that the  
7 Soviet Union is using forced labor on a massive scale."

8 The final State Department report which was issued in  
9 February of 1983 stated that forced labor is used "to produce  
10 large amounts of primary and manufactured goods for both  
11 domestic and Western export markets." I inserted that  
12 report in the Congressional Record in February of 1983. And  
13 on the 16th of February 1983, I sent a letter to the  
14 Commissioner of Customs, Mr. von Robb, requesting specific  
15 information regarding products entering the United States  
16 from the Soviet Union.

17 I also sent a letter at that time--in fact, on the same  
18 date--to Under Secretary Ulmer.

19 In March, the Assistant Commissioner, Robert P. Shaffer,  
20 responded to my letter listing a number of products which  
21 were imported from the Soviet Union and their value.  
22 Under Secretary Ulmer responded on April 4th of 1983,  
23 indicating that he was requesting the CIA to give us a  
24 report of industries in the USSR that employs forced labor.

25 Now, Mr. Chairman, let me interrupt at this point to just

1 beg the indulgence of the committee. I have about 15 more  
2 specific episodes that I want to enter onto the record.

3 The reason I want to do so is that to justify the  
4 passage of this amendment, I think I ought to show that we  
5 have brought this matter to the attention of every  
6 responsible official in the Executive Branch repeatedly over  
7 nearly five years. This has come up over and over again,  
8 as the additional material I am going to present to the  
9 committee will show. I have discussed it on numerous  
10 occasions with the current Secretary of Treasury, his  
11 predecessor, with the Commissioner of Customs, with the  
12 President of the United States, and with many other  
13 responsible officials, and the fact of the matter is they  
14 are stonewalling.

15 The Senate has acted on this matter on two occasions.  
16 The House of Representatives has expressed its interest.  
17 It is just clear that this is a case where the law is never  
18 going to be enforced unless Congress itself says here is  
19 what has happened and here is our finding.

20 So with that word of explanation, let me just pick up  
21 the narrative, Mr. Chairman, and point out that on the 19th  
22 of May of 1983, the CIA provided a list of industries in  
23 which forced labor is extensively used.

24 On September 28th, 1983, Commissioner von Robb reported  
25 his findings under the law--that is the term that is used in

1 the law that forbids the importation of goods produced with  
2 forced labor, is that when the Commissioner finds--well, on  
3 September 28th, 1983, Commissioner von Robb reported his  
4 finding to Secretary Regan that some 36 classes of  
5 merchandise be barred from entry into the United States  
6 due to his finding that they were made with forced labor in  
7 the USSR.

8 I wrote to Secretary Regan, and Secretary Schultz and  
9 Commissioner von Robb on October 13th of 1983, asking for  
10 some report of what steps were being taken. When it became  
11 evidence that we were getting a double shuffle, I asked some  
12 of my colleagues, who also expressed their interest, and 45  
13 Senators did so.

14 I offered an amendment subsequent to that when it became  
15 clear that we were still not getting any place. On  
16 November 8th, 1983, I offered an amendment urging the  
17 Secretary of Treasury to use his existing statutory authority  
18 to prevent the import of any product or material produced in  
19 the Soviet Union unless it was produced without the use of  
20 forced labor. This was adopted by the Senate in November of  
21 1983.

22 The Chairman. Senator, would you yield just a minute?  
23 Has your amendment been given to us?

24 Senator Armstrong. Yes.

25 The Chairman. I have not seen a copy of it, and I would

1 really like to look at it.

2 Senator Armstrong. I think it has been passed out.  
3 Mr. Chairman, I think it has been distributed to all members.

4 Later in November of 1983, Treasury Secretary Regan  
5 responded to my earlier letter by saying that they were  
6 looking at the matter and would get back to us.

7 In January of 1984, the Finance Committee of the Senate  
8 requested the International Trade Commission to examine the  
9 nature and extent of imports into the United States of goods  
10 that are wholly or partially manufactured by forced labor.

11 A lot of other things ensued, but various Senators--  
12 Senator Moynihan and others, along with myself--tried to  
13 bring this to the attention of the Commissioner, to the  
14 Secretary of Treasury. At one point there was a lawsuit in  
15 which 38 members of the House of Representatives joined,  
16 suing for the enforcement of this matter. It was a subject  
17 of amendments on appropriations bills. And then in January  
18 of 1985, Secretary Regan sent a memo to Commissioner  
19 von Robb saying that he could not agree to the earlier  
20 finding of the Commissioner about 36 classes of products  
21 which ought to be prohibited, and saying, in effect, that  
22 there ought to be a more narrowly defined classification.

23 At the Customs' authorization hearing in April of 1985,  
24 I requested a hearing on the specific issue of enforcing the  
25 law with respect to forced labor. That hearing was held on

1 19th of July of 1985.

2 In September of 1985, I again inquired--this time, of  
3 Secretary Schultz--as to why no action had been taken. In  
4 the meantime, Mr. Chairman, on the 2nd of December of 1983,  
5 Commissioner von Robb, having been asked to provide a  
6 tighter list, a more carefully drawn list, backed off of his  
7 original finding that there were 36 products, and reported  
8 back that, according to the new higher standards that he  
9 had been asked to meet, that there were five products which  
10 ought to be the subject of this kind of a product ban.

11 And so it is these five products, Mr. Chairman, which  
12 are addressed in my proposed amendment.

13 I just think the reality of this thing is this thing  
14 is this, and s really approach this with a great sense of  
15 fulfillment because one way or another I am going to get  
16 this item off of my hot list. I have been carrying this  
17 around for about five years now, and either we are going to  
18 enforce the law or we are not. But I didn't think when we  
19 started that it was up to the Senate to jump in and do some  
20 things that really the Executive Branch ought to do. It is  
21 very clear that neither this Treasury Secretary nor his  
22 predecessor is going to do. The President isn't going to do  
23 it. The Commissioner of Customs isn't going to do it,  
24 unless he gets the go ahead from the people he reports to.

25 The Assistant Secretary of the Treasury for Enforcement

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1 testified at length when he was up for confirmation that he  
2 would see about doing it, but he isn't going to do it either.  
3 And so the reality of it is either the Finance Committee  
4 wants this law enforced or it doesn't. The Senate has said  
5 so on a number of occasions, and this seems to me now to be  
6 the correct way for us to proceed.

7 The Chairman. Well, the Senator has long expressed his  
8 interest in this, and a very sincere and worthy interest.  
9 I know a number of other Senators have joined with him in  
10 this concern. This was not on the agenda. We are delighted  
11 to consider it this morning. I would like to have any staff  
12 comment on it.

13 Would you consider this a revenue measure or not?

14 Senator Armstrong. Well, I don't think it is a revenue  
15 measure. In fact, the dollar volume of the imports we are  
16 referring to is virtually at the level of inconsequential.  
17 In fact, you might wonder--maybe I should just state this for  
18 the record as well--why, if we are talking about a very small  
19 amount of international commerce, why this is such an  
20 important issue. And the reason is very simple. Because  
21 it is the law. The intent of the law is now commerce-related  
22 but human rights-related. And when the United States  
23 refuses to enforce its own legal procedures in a matter of  
24 this kind, we make a mockery of the ideals we stand for.

25 And it appears to me, Mr. Chairman, that the real

1 issue is to have a law like this on our books and not  
2 enforce it make hypocrites of us. And I can't understand,  
3 honestly, why the Administration has been so loathe to  
4 enforce this. It is not as if they are unwilling to act in  
5 other areas where the legal authority is a lot less clear.  
6 In fact, at one point when they were arguing that they  
7 didn't have enough evidence to support this, I pointed out  
8 to them that they had mined the harbors in Nicaragua on a  
9 lot flimsier grounds, that they had taken the country  
10 practically to the brink of war with no evidence whatsoever,  
11 and yet here we have got reports from the CIA. We have got  
12 reports from human rights organizations. And I am just to  
13 the point where I think we ought to vote it up or down. And  
14 it is not a matter of revenue, it is not a matter of  
15 commerce, it is just a matter of principle. This is the  
16 law; it ought to be enforced. If we fail to do so, I just  
17 think it is a blemish on our national reputation. But it is  
18 not a big deal in money. It is a very small amount.

19 The Chairman. I was looking at the technical question  
20 as a revenue measure, wondering about the House. I would  
21 like to have staff comment on it.

22 Mr. Lang. Mr. Chairman, the House will interpret the  
23 constitutional provision itself. Its ultimate weapon is  
24 simply to do nothing about something you report to it. The  
25 bill you will report the authorization out on will be an

1 original S-numbered bill. So if the House does decide that  
2 the measure is a revenue measure, they could simply  
3 blue-slip the S-numbered bill.

4 It is somewhat difficult to predict what the House's  
5 attitude would be, but, in general, if something relates to  
6 the importation of goods, they broadly interpret the  
7 constitutional provisions. So you may have a problem there.

8 Senator Armstrong. Mr. Chairman, I don't have any  
9 information on that point, but, frankly, I would be  
10 surprised if the House did interpret it that way because in  
11 the past at least, the members in the House who were  
12 interested in this have been even more adamant about it than  
13 we have in the Senate; have taken an even sterner point of  
14 view about the lack of enforcement by the Administration on  
15 it.

16 So my guess is, though I have not consulted with  
17 anybody about it, that they would not interpose a technical  
18 objection. Certainly if that were the case, I wouldn't  
19 mind dropping it. But we have been horsing around this for  
20 five years, and the Senate has voted on it at least twice,  
21 and has on both occasions by an overwhelming margin agreed  
22 with the principle expressed here.

23 In fact, the Senate has actually voted on the issue  
24 three times. The House has voted on it as well. It is  
25 just clear that there is a will in Congress to enforce this,

1 which the Administration, for their own reasons, do not wish  
2 to do. And so I would be very surprised if there was much  
3 objection to this in the House. I might be wrong.

4 The Chairman. Would any other Senator care to comment?

5 Senator Baucus. Mr. Chairman.

6 The Chairman. Yes, Senator Baucus.

7 Senator Baucus. Mr. Chairman, I wonder how wide this  
8 is at this time. The Soviet trade representatives have said  
9 that this specific issue is one that can and will cause  
10 problems with the U.S.-Soviet trade relationships. And I  
11 know that the Soviet Union is now buying more corn from the  
12 U.S., and this week or this next week is starting to enter  
13 into negotiations with the Soviet Union to buy potentially  
14 American wheat.

15 And they have said this could be an irritant, a problem  
16 with U.S. trade relationships. There is always statutory  
17 provisions to provide for this kind of problem you already  
18 mentioned. I just don't know if it is wise at this point to  
19 jump into this. And I don't want to single out the  
20 Soviet Union either. I mean, there are other countries that  
21 may or may not have ventured labor, not only the Soviet Union.  
22 I just don't know from the commercial trade viewpoint where  
23 that makes much sense to go to at this time.

24 Senator Armstrong. I can't argue that it does, Max.  
25 In fact, you hit on exactly the thing that it whispered,

1 that if we insist on enforcing this human rights principle  
2 that it may be bad for business. And I can't argue that it  
3 won't be. I actually don't think it will. But I will just  
4 tell you that when it comes to doing business with the  
5 Soviet Union, if we are not prepared to stand up for what we  
6 believe in, we are not going to do business with them on arms  
7 control or wheat or anything else on a satisfactory basis.

8 Now, we can escalate this to some kind of a level where  
9 it gets to be a big international incident, but I don't  
10 think that needs to happen. That is one reason why over the  
11 last five years I have tried to do this in a low key way and  
12 in a non-confrontational way. This is a routine action. It  
13 is a legal process, which I frankly believe the Commissioner  
14 of Customs and the Secretary of Treasury are obligated to  
15 fulfill as a matter of law, whether it is convenient or not.

16 I cannot dispute your point. It is an irritant. Just  
17 like every time we sit down to talk about arms control, for  
18 example, the first thing that our negotiators are supposed  
19 to raise is, well, how about the Helsinki agreement. And  
20 that is an irritant too. But I think in this case it is an  
21 important enough matter of principle that we ought to do  
22 what is right, and then if we need to change it at some  
23 point, and back off, we should. Now, it has been enforced  
24 against other countries, and it has been previously  
25 enforced against the Soviet Union.

1           The Chairman. Well, let me say to the Senator, I share  
2 his concern. Next Wednesday, we are going to be having  
3 hearings here on workers' rights, on the trade bill, and we  
4 will be having witnesses on that. I am wondering if that  
5 might be more appropriate.

6           Senator Armstrong. I don't think so, Mr. Chairman.  
7 There isn't any need for any more hearings on this subject.

8           The Chairman. But we are having hearings on workers'  
9 rights.

10          Senator Armstrong. No. I mean on the question of  
11 enforcing this statute.

12          The Chairman. Oh, I am not talking about hearings,  
13 per se, on your provision. But it is so closely related.  
14 I was wondering if that might be more appropriate for you  
15 to consider. Frankly, I have no objection here. Go ahead,  
16 Senator Durenberger.

17          Senator Durenberger. Mr. Chairman, briefly, I am the  
18 co-sponsor with my colleague from Colorado of his  
19 resolution, and I also have a resolution I would like to offer  
20 at the appropriate time on Canadian corn, an issue that came  
21 up on Friday. And Max raises a good point. And I am  
22 obviously perceived to be caught in the middle of it because  
23 one of the biggest corn states in the country that I  
24 represent, and we have done the battle before. But the last  
25 democratic chairman of this committee used to have a saying

1 that--well, he had a lot of sayings--but one of them that  
2 was my favorite was, that if we don't stand for something we  
3 will fall for anything. And I keep repeating that because  
4 in this political process, if you will, I guess I have  
5 learned that that is kind of an important rule that we  
6 ought to live by.

7 So whether it is the issue of Soviet Jewry or it is the  
8 human rights issues or the forced labor issue, someone  
9 always is back there sort of quietly jabbing all of our  
10 consciences on these issues and raising them in one form or  
11 another. And the Senator from Colorado, on this  
12 particular issue, has been the person who has reminded us  
13 that from time to time we ought to be doing what is right.

14 And so I guess that while I have the concern that Max  
15 expressed for trade relations, I also don't think that it  
16 would unfavorably impact on negotiations.

17 I do think that the Senator is right in bringing it up  
18 at this point, and I would hope that all of our colleagues  
19 on the committee would support him on this vehicle.

20 The Chairman. Are there further comments on it? Would  
21 any other Senator care to comment on it?

22 Senator Rockefeller. Could I just ask one question to  
23 the Senator? Does this mean that the President would have  
24 to certify virtually every product as to whether or not it  
25 was slave labor produced?

1 Senator Armstrong. No, Senator. My desire is simply,  
2 as I mentioned earlier, to kind of resolve the issue and get  
3 on with it, and to make the point that we are going to  
4 enforce our own legal processes.

5 My amendment actually does that in a very low key way.  
6 It is just a finding, that this group of products fall into  
7 the classification of the existing law--I think there are  
8 six on the list--and gives the President the right to make  
9 a contrary finding if, in his judgment, subsequently  
10 information is persuasive that these are not produced by  
11 forced labor.

12 In other words, we are just saying it is just a  
13 congressional finding of fact. If Congress finds that this  
14 group of products--gold, ore, and the others--are produced  
15 under conditions of labor that violate the provision of  
16 existing statute, it gives the President to waive our  
17 finding if he has better information at a later time. But  
18 it doesn't say anything about any other products other than  
19 those that are specifically named.

20 And my desire is not then to come back and take on the  
21 other 30 products that Commissioner von Robb originally  
22 entered a finding on. It is not the product; it is the  
23 principle that I am concerned about.

24 Senator Baucus. Mr. Chairman.

25 The Chairman. Yes.



1           Senator Baucus. Mr. Chairman, I just want to understand  
2 the Senator. I have a hard time making this point. What  
3 gold ore? I mean, how much gold ore is. And agricultural  
4 machinery, how much agricultural machinery? What is the  
5 evidence? Tractor generators, tea, crude petroleum, motor  
6 fuel, kerosene. I, for one, haven't seen the evidence. It  
7 may exist, it may be there, it may be conclusive, it may be  
8 persuasive, compelling. What isn't?

9           Senator Armstrong. No. Senator, I wouldn't argue that  
10 it is conclusive.

11          Senator Baucus. Then why should we make the finding?  
12 It is very vague evidentiary.

13          Senator Armstrong. No, no. It is not vague. It is  
14 very persuasive.

15          Senator Baucus. What is it?

16          Senator Armstrong. Let me just explain how the law  
17 works and then why. I am careful to say that it is not  
18 conclusive and doesn't need to be.

19               The law specifically says that the Commissioner of  
20 Customs shall prohibit the importation of goods produced if  
21 he finds reasonably but not conclusively--that is a term  
22 that appears in the law--that they have been produced by  
23 forced labor.

24               The point is, there is no need for it to be found  
25 conclusively. Now, the basis of this finding is really

1 twofold. First of all, the Senate has asked for a report  
2 from the State Department and CIA and it has long since  
3 received it. We know that. That has been submitted to the  
4 Senate.

5 Senator Baucus. What does the report state?

6 Senator Armstrong. The report says that these  
7 categories of goods--and there were originally 36 of them,  
8 I believe--meet this criteria.

9 Senator Baucus. What criteria?

10 Senator Armstrong. The criteria that I just mentioned,  
11 that they were produced by forced labor.

12 A second element of it is that at the outset, back, I  
13 guess, in 1983 --

14 Senator Baucus. What report is that? Do you have that  
15 with you or can you identify that report?

16 Senator Armstrong. That was submitted some years ago,  
17 you understand. It is now back in 1983.

18 The second level of this is that the Commissioner of  
19 Customs, in fact, did submit his findings. I mean, he found  
20 it as a matter of his official responsibility. He entered  
21 that finding on three dozen products. This proved to be  
22 such a contentious meddlesome matter that Secretary Regan,  
23 when he was the Secretary of Treasury, in effect said, no,  
24 go back and do it again, and do it according to more  
25 tightly drawn standards. And in response to that,

1 Commissioner von Robb came back with this reduced list.

2 So all we are saying in this amendment is that  
3 Commissioner von Robb has done it; that we find--let me turn  
4 to it and cite the exact language of it--our finding is the  
5 following: "The Commissioner of Customs has reported to the  
6 Secretary of Treasury that the Commissioner has information  
7 that reasonably, even if not conclusively, indicates that the  
8 following goods were articles of merchandise from the  
9 Soviet Union are being made wholly, or in part, by convict  
10 labor and/or forced labor and/or indentured labor under  
11 penal sanction," and so on.

12 So, in other words, we are hanging our hats on findings  
13 that have been entered in the regular course of business,  
14 according to the statute. We are not branching out and doing  
15 any investigative work. We are basing it on the findings of  
16 the agencies that are supposed to do this kind of thing.

17 In fact, the last thing I want to get us into is trying  
18 to make those kind of determinations. And, in fact, if we  
19 had had any reasonable response over nearly five years, I  
20 wouldn't be asking the Congress to make such a findings.  
21 But the Senate, having looked at this, has asked for  
22 enforcement of the statute. Individual members of the  
23 Senate have, and the Senate itself has on two occasion,  
24 and, in a sense, have done so on a third occasion. Thirty-  
25 eight members of the House sued for enforcement of it. And

1 it is to the point where we have now either got to decide  
2 to go or no go. But this I really think is a very low key,  
3 low profile resolution of the problem. It is not a  
4 flamboyant approach at all.

5 The Chairman. Gentlemen, we have a quorum here. If  
6 there are no further comments on this, we will put the  
7 resolution to the committee for a vote.

8 Senator Danforth. Is this a free-standing resolution,  
9 Senator?

10 Senator Armstrong. It is an amendment to the Customs  
11 bill.

12 The Chairman. All in favor of the amendment, as  
13 stated, make it known by saying "aye".

14 (Chorus of "ayes")

15 The Chairman. Opposed?

16 Senator Baucus. No.

17 The Chairman. The amendment is carried.

18 Senator Armstrong. Thank you, Mr. Chairman.

19 The Chairman. Now, I would like to have the staff, if  
20 you will, get to the USTR and to the International Trade  
21 Commission budgets so we can get those authorized while we  
22 have a quorum here. We have presented the Customs Service,  
23 but if you gentlemen would go ahead and present the USTR  
24 and the International Trade Commission budgets.

25 Mr. Lang. Yes, sir. The Administration request with

1 respect to the Office of the U.S. Trade Representative is  
2 for \$15,248,000. That is an increase of approximately  
3 \$2 million over the current fiscal year appropriation. This  
4 reflects increases in both non-discretionary costs and some  
5 increases necessitated by operations in the new  
6 multilateral round of trade negotiations.

7 Senator Packwood. Mr. Chairman, I don't know of any  
8 objection to either the ITC or the USTR budget. And I  
9 would suggest that while we have a quorum we report both of  
10 those out.

11 The Chairman. Well, let's include the Customs Service  
12 too because I don't recall that I did a specific on them. If  
13 there is no objection we would include the Customs Service  
14 appropriation too. A motion has been made.

15 Senator Durenberger. Mr. Chairman.

16 The Chairman. Yes.

17 Senator Durenberger. I indicated that I would have an  
18 amendment to I think the Customs Service resolution. If I  
19 might be either permitted to offer that now or with the  
20 understanding to do it later.

21 The Chairman. Why don't we act on it now with the  
22 understanding that we will vote on the amendment to be  
23 attached to it, if we may.

24 Senator Durenberger. All right.

25 The Chairman. If I may do it that way. All right?

1           Are there any objections to the appropriations for the  
2 three agencies?

3           (No response)

4           The Chairman. If not, they will be passed. And I  
5 recognize the Senator from Minnesota for an amendment.

6           Senator Danforth. Mr. Chairman, I have an amendment  
7 resolution that I am going to offer.

8           The Chairman. All right. Good.

9           Senator Heinz. Mr. Chairman, may I also offer an  
10 amendment? There are two that I have offered on other  
11 Customs resolutions, one involved in the sharing of grand  
12 jury information on Customs fraud cases, and the other,  
13 extending the statute of limitations. And I will be  
14 offering them through the trade bill because I didn't want  
15 anybody who -- there are many people, including the Customs  
16 Service, I find, that have a particular interest in our  
17 giving them these authorities. I didn't want anybody to  
18 think that I was giving up on that.

19           And I would also offer some amendments involving the ITC  
20 relating to the definition of injury and some operational  
21 issues for those who may have an interest as well. But I  
22 not in the interest of the committee's markup present today.

23           The Chairman. It is so noted.

24           Senator Baucus. Mr. Chairman.

25           The Chairman. Yes, Senator Baucus.

1           Senator Baucus. Mr. Chairman, I have an amendment that  
2 I think will be non-controversial too for the Customs bill.

3           The Chairman. All right.

4           Senator Moynihan. Mr. Chairman, I have a free-standing  
5 amendment on Canadian trade I would like to offer.

6           The Chairman. The Senator is noted.

7           Mr. Lang. Mr. Chairman, if I can just clarify. On  
8 the Customs Service authorization, my understanding of what  
9 the committee had before it was an amount sufficient to  
10 maintain current levels of the Customs Service.

11          The Chairman. That is correct.

12          Mr. Lang. And that would also include provisions  
13 requested by the Administration that are listed in the  
14 middle paragraph on page 4 of the committee memorandum,  
15 that is, authorization to purchase a certain number of  
16 police-type vehicles; to have \$10,000 for official  
17 reception and representation expenses; to make awards to  
18 informers; and to keep the \$25,000 pay cap in effect in the  
19 next fiscal year. Those were all requested by the  
20 Administration. I just wanted to make sure.

21          The Chairman. If there are no objections, those are  
22 included.

23                    (CONTINUED ON FOLLOWING PAGE)

1 Mr. Lang. Thank you, sir.

2 The Chairman. Now I have just had given to me a  
3 request by Senators DeConcini and Domenici requesting--and  
4 we should take this under consideration--a request that we  
5 raise the amount for Customs by some \$200 million, which  
6 the Administration's proposal received the last minute here.

7 I don't see the substantiating information concerning  
8 what that money would go for, whether it would go for  
9 airplanes or people, or whatsoever. Would staff comment  
10 on the request.

11 Mr. Lang. Mr. Chairman, we don't know what the basis  
12 of the additional amount would be either. The amount  
13 necessary to maintain current levels would be \$1,035,000,000.  
14 The amount requested by Senators Domenici and DeConcini is  
15 \$1,267,000,000, and their letter simply says, "Although we  
16 have not yet had the opportunity to do a comprehensive,  
17 detailed analysis of the specific resource requirements,  
18 our best estimate is ..." So, we are not able to tell you  
19 what the basis of the new number is.

20 The Chairman. Gentlemen, I recognize their concern and  
21 share their concern. I wish we could put more money in the  
22 Customs Service. But, we have had several days of hearings,  
23 and recognizing the limitations of the budget and trying to  
24 cut it by some \$61 billion, I question that at this time we  
25 can add that kind of funds.



1           Senator Wallop. Mr. Chairman, I might suggest that if  
2 we were able today to repeal the Windfall Profits Tax and  
3 transfer the employees of IRS to collect that to the Customs  
4 Service, it would be, it could match the industry's cost of  
5 filling the forms, \$100 million.

6           The Chairman. That's a creative way of doing it.

7           (Laughter)

8           The Chairman. It would meet with some sympathy by the  
9 Chairman, but I'm not sure that it would them.

10          (Laughter)

11          Senator Wallop. I thought it might. I mean, I don't  
12 know what they are going--they are collecting nothing and  
13 costing them \$100 million to it. It seems like we might be  
14 very efficient if we were to do that.

15          The Chairman. Let me ask, is there a mood on the part  
16 of any member to push for the extra \$200 million or not?

17          Senator Wallop. Mr. Chairman, not here and not  
18 immediately. But I recall, when we were doing some things  
19 with the Reform Act and others, that the increase in Customs  
20 personnel was generally viewed as not a cost, as returning  
21 more than the immediate static cost to the Treasury.

22          If that could be shown at some moment in time, I would  
23 certainly like the committee to consider it again. Because,  
24 as you recall, the argument made was adding Customs agents  
25 did not, in net, cost the government, but indeed raised

1 money for the government.

2 The Chairman. Senator, I think that we have used a  
3 number of some \$17 per dollar spent. At some point, that  
4 becomes marginal and the incremental increase begins to lose  
5 substance. But, I think after several days of hearings,  
6 for us to make that kind of a change without a recommendation  
7 as to how the money would be spent, would not be appropriate.

8 If you gentlemen want to try it on the floor, you are  
9 perfectly free to do so.

10 Senator Wallop. That's why I suggested, way back, that  
11 we have some justification, rather than what was presented.

12  
13 The Chairman. All right. If there are no further  
14 questions about the Customs, may we have a motion to approve  
15 the amount that was recommended. Moved, seconded. All in  
16 favor, make it known by saying aye.

17 (A chorus of "ayes")

18 The Chairman. All right. Have we completed all the  
19 agencies or not? Which one do we have left?

20 Mr. Lang. You have acted, by voice vote, on all three  
21 of the budgets.

22 The Chairman. All three now. Fine.

23 Senator Durenberger. Mr. Chairman --

24 The Chairman. I'll hear the Senator from Minnesota.

25 Senator Durenberger. Mr. Chairman, with respect to

1 to you and the ranking members, I am going to be very brief.  
2 Correct one impression I left earlier that your staff  
3 advises that I should have a freestanding resolution, not  
4 an amendment to the Customs Bill.

5 The Chairman. All right.

6 Senator Durenbergèr. This is the Canadian Corn  
7 Resolution. I understand my colleague from Montana, Baucus,  
8 they associated with this resolution.

9 I introduced it as S. Con. Res. 27 on last Friday,  
10 March 6, the day that the Canadian Department of National  
11 Revenue ruled that the Canadian corn industry has been  
12 injured by American agricultural programs, and thereupon  
13 approved a tariff of 84.9 cents per bushel on American  
14 exports going to Canada.

15 The STR, Clayton Yeutter, who is no friend of the corn  
16 growers of this country--because of what they did to him  
17 and others on textiles--was quoted Friday as saying U.S.  
18 corn exports to Canada are so small that it is inconceivable  
19 that they injure Canadian corn farmers by any reasonable  
20 measure and "the reality is that Canadian imports of U.S.  
21 corn three years ago were 3.94 percent; last year, just a  
22 little over 4 percent." This is a ridiculous situation.

23 And my resolution would provide that the President  
24 should direct the Secretary of Commerce to initiate a  
25 countervailing duty investigation under section 701 of the

1 Tariff Act of 1930 of subsidized agriculture imports from  
2 Canada, which benefit from Canadian price support programs,  
3 and/or direct the U.S. Trade representative to immediately  
4 initiate an investigation under section 301 of the Trade  
5 Act of 1974, to determine whether agriculture programs  
6 operated by the Canadian federal and provincial governments  
7 constitute an unfair and unjustifiable trade practice.

8 And I would move the adoption of that resolution.

9 The Chairman. Are there further comments?

10 Senator Baucus. Mr. Chairman.

11 The Chairman. Senator Baucus.

12 Senator Baucus. I think it is an excellent resolution,  
13 but the fact is the Canadians are beginning to set a  
14 precedent which, if other countries follow, is going to  
15 devastate agricultural trade with the world.

16 Canada claims that our farm program, basically, can be  
17 countervailable, and if Canada can impose--and Canada does  
18 say they want to impose--an 85 cent countervailing duty on  
19 corn exports from this country into Canada, once any country  
20 begins to go down that road, there is no end to it.

21 The fact is, the French are beginning to look at the  
22 Canadian actions and begin to initiate similar proceedings  
23 against the United States, based upon the same theory.

24 Senator Packwood. Let me make sure I understand, Max,  
25 what they did. Is this their equivalent of a countervailing

1 action?

2 Senator Baucus. Yes.

3 Senator Packwood. In other words, it would be the  
4 twin of what we did in the lumber industry, when we said  
5 their form of selling timber was a subsidy.

6 Senator Baucus. That's correct, if the theory is the  
7 same.

8 Senator Packwood. I'm not sure if what they have done  
9 is wrong. I don't know if their conclusion is right. I  
10 don't know if it was a stacked hearing. But, I'm not so  
11 sure that we're without sin in this. If we're going to say  
12 they haven't got the right to bring the equivalent of a  
13 countervailing duty action and claim that we're subsidizing.

14 Senator Baucus. Well, Mr. Chairman, if I might. I  
15 think any country has a right to anything. The fact is  
16 that agriculture generally is at a status different from  
17 other commercial products in world trade. For example,  
18 under our trade laws, we can import tariffs on quotas on  
19 agricultural products, but not on others, generally.

20 I mean it is just an underlying current -- international  
21 trade laws are. If Canada get to claim that our farm program  
22 subsidizes U.S. agriculture in a way that can be  
23 countervailed against under Canadian law, then all other  
24 countries--not all--but, a good number of other countries in  
25 the world are going to start to initiate the same kinds of

1 proceedings.

2 I think we should send a very strong feeling to Canada  
3 that the more they go down this road, the more it is not  
4 only going to hurt agriculture, generally, because other  
5 countries are going to tend to follow the same route, as  
6 France now is because of the Canadian action.

7 Second, I think that this action is going to hurt  
8 Canadian free trade talks. The more Canada wants to claim  
9 that the U.S. Farm Program damaged, or can be countervailed  
10 against, the more I think it is going to be very difficult  
11 for this country--certainly farm states--to go along with  
12 free trade talks.

13 I think that now is the time to nip it in the bud.  
14 Just tell Canada to back off.

15 Senator Packwood. But I still don't understand. I may  
16 go with you. What you are saying is that even if we subsidize  
17 farm crops and we do, but even if we do that, in terms of  
18 the game among gentlemen, none of them, none of the countries  
19 will bring countervailing duty actions against the other's  
20 agricultural processes or subsidies. And those are sort of  
21 off limits.

22 Senator Bausus. Historically, they tend to be off  
23 limits.

24 Senator Heinz. Mr. Chairman, would the Senator yield  
25 for a question?

1 Senator Durenberger. Well, if I might just add as the  
2 purport of the resolution.

3 The Chairman. Senator Durenberger.

4 Senator Durenberger. I think the difference, Mr.  
5 Chairman and Bob, in the two cases--the timber case and  
6 this one--is that there is clear--at least according to  
7 you and others--there is clear evidence of injury to  
8 American interests in the timber case.

9 The evidence here is--there is no evidence of injury.  
10 I could back and argue their first decision, which was they  
11 used federal crop insurance program, which has been in  
12 existence here in this country for 35 years or something,  
13 the Great Plains Conservation Program. They call these  
14 subsidies. They have been around here for 30, 40, 50 years.

15 I'm not going to argue that point. The only point I'm  
16 arguing here is the finding of injury. We have 4 percent,  
17 or less than 4 percent of their imports are U.S. There is  
18 no injury.

19 Senator Baucus. Well, the fact is they declined.

20 Senator Durenberger. Right.

21 Senator Baucus. So, the evidence is compelling there  
22 is no injury here.

23 Senator Durenberger. Yes. There isn't any U.S. corn  
24 on the Canadian market. So, how the heck can there be  
25 injury. That is the distinction here, between the timber

1 case and this one, I think.

2 Senator Wallop. But that's a distinction. That  
3 distinction is quite correct, and there is no country in  
4 the world whose agricultural products are not subject to  
5 the same conflict. Not all countries have quite the  
6 agriculture specific to this situation.

7 Senator Matsunaga. Mr. Chairman.

8 The Chairman. Senator Matsunaga.

9 Senator Matsunaga. What is the Administration's  
10 position on this proposal? Any?

11 The Chairman. Will the staff comment on the  
12 Administration having, it's position on Senator Durenberger's  
13 resolution.

14 Mr. Lang. We're not aware of an Administration  
15 position on Senator Durenberger's resolution, but Ambassador  
16 Yeutter did issue a statement on Friday which said as  
17 follows, "U.S. corn exports to Canada are so small that it  
18 is inconceivable that they injure Canadian corn farmers by  
19 any reasonable measure. If this finding were to be followed  
20 by other countries, it could severely damage the credibility  
21 of a countervailing duty and safeguard process everywhere  
22 and lead to a rash of protectionist actions throughout the  
23 world." And he then says when the rationale for the finding  
24 is released, they'll examine it closely.

25 I don't know if a representative of the Administration



1 would be here to comment on this resolution.

2 The Chairman. Well let's find out. Let's find out,  
3 Senator, if we have a representative from the Administration  
4 to comment on this resolution. Yes.

5 Mr. Doyle. Mr. Chairman, I am from the USTR, but I  
6 am on the Administration and I cannot comment.

7 The Chairman. All right.

8 Senator Matsunaga. So, by that statement, Mr. Chairman,  
9 in effect, the Administration is saying it endorses the  
10 Durenberger amendment, or the resolution rather.

11 Mr. Lang. I'm not saying that, Senator. I don't know  
12 what their position is on the Durenberger resolution. All  
13 I know is that they took a dim view of the Canadian action.

14 The Chairman. Senator Chafee has been seeking  
15 recognition for some time.

16 Senator Chafee. Mr. Chairman, I look on this as the  
17 most prestigious committee in the Senate, and I just hate  
18 to see us move ahead on something like this, without hearing  
19 from really some authoritative people in the Administration  
20 what we're doing.

21 As you know better than anybody, Mr. Chairman, we're  
22 engaged in these talks with the Canadians right now. If  
23 the agriculture people don't like this procedure, they have,  
24 of course, the right to bring their own 301 action.

25 And, for us to step in with a resolution like this at

1 time, without even hearing from the responsible people who  
2 are dealing with the Canadians and represent us in our  
3 trade policy, I just think it would be a great mistake.  
4 And I would hope we wouldn't proceed with this resolution,  
5 Mr. Chairman.

6 The Chairman. Senator Heinz has been seeking recognition.

7 Senator Heinz. Mr. Chairman, first, I'd like to ask  
8 a question of staff. Does the subsidies code, which was  
9 negotiated in 1978 by the Tokyo Round, does it apply to  
10 agricultural commodities?

11 Mr. Lang. Senator Heinz, there are two tracks in the  
12 subsidies code and subject to correction by an Administration  
13 expert, our view would be that one of them does and one of  
14 them doesn't. For the purposes of bringing international  
15 actions in the Gatt against subsidies, there are special  
16 rules for agriculture, which would appear not to apply to  
17 agricultural programs unless they affect the market share--  
18 the traditional market share of a country.

19 But, when you are talking about a country's authority  
20 to take a domestic countervailing action, the 1979  
21 agreement allowed that action to be taken, not only against  
22 foreign export subsidies, but against domestic subsidies.

23 And, therefore, the Canadian Government --

24 Senator Heinz. In our act, and I presume in Canada  
25 as well.

1 Mr. Lang. And I would presume Canada might take that  
2 view of this situation. However, Ambassador Yeutter's  
3 statement--which I just read--would suggest that he  
4 considers this to be dangerous to the subsidies code that  
5 resulted from the Tokyo Round.

6 Senator Heinz. What you are saying, I think, is that  
7 there was no special carve out in the Tokyo Round or  
8 agriculture. Agriculture, as far as being covered --

9 Mr. Lang. By countervailing statutes.

10 Senator Heinz. -- by countervailing duty statutes in  
11 countries. Now, is it not true, however, that Gatt  
12 signatories are entitled, or are they not entitled, to an  
13 injury finding before any such countervailing duties can  
14 be imposed? Code, put it this way -- I should say, aren't  
15 code signatories entitled to an injury finding?

16 Mr. Lang. Yes sir. They are.

17 Senator Heinz. Did Canada make any injury finding in  
18 this case that we know of.

19 Senator Durenberger. Yes. They did it on Friday.

20 Mr. Lang. I believe they did. I'm told that's what  
21 the Friday decision was. But, I don't have the text to  
22 read.

23 Senator Heinz. Because the report I got in the  
24 Washington Post--always a dangerous, always dangerous to  
25 take it as the last word--was that there seemed to be an

1 absence of an injury finding. I just want to be clear on  
2 that point. Do you think there, your information said there  
3 was an injury finding?

4 Mr. Lang. Ambassador Yeutter's statement indicates  
5 that he wants to see the Canadian papers before he announces  
6 on that subject. And I feel the same way. Until we see  
7 what they've decided, I'm really unable to answer your  
8 question.

9 Senator Heinz. Let me ask Dave Durenberger then.  
10 David, there seems to be a little uncertainty as to whether  
11 or not the Canadians played by the rules or not. If they  
12 have not played by the rules, I am totally for your  
13 resolution. I might be for it also based on what Max  
14 Baucus has indicated. But, I would feel more comfortable  
15 if we had a clearer idea of what the Candadians either did  
16 or didn't do. Because, if they didn't have a legitimate  
17 injury finding. you've got an open and shut case.

18 Senator Durenberger. Well, would you be more  
19 comfortable if I modified it with the qualifier that if,  
20 in fact, there was a finding by the Canadian Department of  
21 National Revenue, that injury to the Canadian corn industry  
22 exists, and that they endorsed the earlier tariff--I think  
23 it was of 84.9 cents--then the Secretary of Commerce should  
24 initiate under 701, or the President should direct the STR  
25 to initiate an investigation under 301 of Canadian

1 agriculture plans.

2 Senator Heinz. You mean, if there -- I would have a  
3 bigger problem if there wasn't a legitimate finding of  
4 injury.

5 Senator Durenberger. But I'm qualifying the resolution  
6 that if there was a finding, then my resolution would be  
7 operative.

8 Senator Heinz. I would think you would want to do it  
9 the other way.

10 The Chairman. If the Chairman may interrupt here for  
11 just a moment. What the Senator has proposed is something  
12 that--if he's right on his facts--I would have considerable  
13 sympathy for. But, I would also want to know what the  
14 Administration wanted to do. And we did have, we made a  
15 trip up there meeting with the members of Parliament, the  
16 leadership, Prime Minister, Trade Minister, talking about  
17 trying to expedite a trade agreement with Canada.

18 And I think that's terribly important to this country  
19 and to them. I'm not sure just what kind of an affect this  
20 kind of mandating would have of countervailing duties.

21 I can say that we'll be having another hearing of this  
22 committee on Tuesday, where we deal with the subject of  
23 section 301, and at that time we could direct the  
24 Administration be here and to comment on the Senator's  
25 resolution. And I would feel much more comfortable about

1 whatever decision we might make after having been apprised  
2 by the Administration. And, I would wonder if the Senator  
3 would consider withholding it until that time?

4 Senator Durenberger. Perhaps I'll withhold until the  
5 Senator from Missouri has a chance to comment.

6 Senator Danforth. Before you withhold it, I wonder,  
7 Mr. Chairman, if we could set it aside until we deal with  
8 the Moynihan resolution. I think that they're both  
9 obviously related to Canadian trade. I am concerned, very  
10 concerned, that if we adopt the Moynihan resolution--which  
11 I will strongly oppose--and if we fail to adopt the  
12 Durenberger resolution, it will set the worst possible  
13 state this committee could set for our negotiations with  
14 Canada.

15 I think that it would be a negotiating disaster. I  
16 support the Durenberger resolution. I think that what  
17 happened--as I understand it--is that the Canadians purported  
18 to find injury and purported it could inflate the  
19 countervailing duty. But, in fact, it was a subterfuge.  
20 It was the use of their subsidy law, countervailing duty law,  
21 in order not to offset the U.S. subsidy, but rather to manage  
22 a worldwide glut of agricultural products, in general, and  
23 corn in particular.

24 And, this subterfuge took place at the same time, not  
25 that the United States was artificially attempting to

1 increase the production of corn, but at the time that we  
2 were taking corn out of production. That was our national  
3 policy. That is, we were taking corn out of production.  
4 The Canadians were increasing the production of corn, and  
5 that they were protecting their own market by this measure,  
6 and that, in fact, U.S. share of the Canadian market for  
7 corn has declined in the past four or five years from about  
8 22 percent to about 4 percent.

9 Now, that in fact, is what has happened. And I think  
10 that if we've lost anything, get away with using subsidy  
11 codes, as they weigh, as they subterfuge, guides the plight  
12 to put in place protectionism for agriculture, it really is  
13 an exceptionally insipid, weak policy for the United States  
14 to follow.

15 So, I strongly support the Durenberger resolution.  
16 And I hope that he will persist in offering it. I hope that  
17 he will persist today in offering it.

18 But I certainly would say that let's deal with the  
19 Moynihan proposition first, because, if we agree to that  
20 and then decide to turn back Durenberger's, that will be a  
21 very, very powerful sign to our negotiators and to the  
22 Canadians, and a very, very delicate one.

23 The Chairman. I think that deserves a chance to reply  
24 by Senator Moynihan.

25 Senator Moynihan. Thank you, Mr. Chairman.

1 First of all, I would like to say that I don't think  
2 that we should raise our levels of disagreement this early  
3 in this Congress, about things that we want to find accord  
4 on. I was surprised and disappointed by the Canadian action.  
5 I am to be meeting shortly now with Mr. Joe Clark, who is  
6 the foreign secretary of Canada, and will so tell him.

7 And I am so fearful of our, how delicate our arrangements  
8 are here. I'd like to make just one point which I hope I  
9 do not become tedious about.

10 The United States has more trade with the Province of  
11 Ontario than it has with Japan. Once again, the United  
12 States has more trade with the Province of Ontario than it  
13 has with Japan. This is incomparably the most important  
14 country in the world to us.

15 In 1986, Prime Minister Maroney and President Reagan  
16 in Quebec reached agreement to commence trade negotiations--  
17 one of the President's most important initiatives, and not  
18 an everyday one. If you'd like to know the details, the  
19 last time it happened was under President Taft. And he got  
20 the then Prime Minister Laureate to agree to a proposed  
21 trade negotiation at a time when most of Canada's trade was  
22 with the United Kingdom.

23 Over in the House, I'm sorry to say, Mr. Champ Clark  
24 said this was an important measure, could lead directly to  
25 the annexation of Canada. And in seven months time,



1 Mr. Laureate was out of office. There's a hotel named for  
2 him in Ottawa and that is what remains of that 75-year old  
3 effort. It took 75 years for a Prime Minister to dare to  
4 do it again.

5 In this committee last year, by a 10-10 vote, we almost  
6 prevented our President from going forward. Mr. Packwood  
7 well remembers that. Now, on the first day of this  
8 conference, of this session, I introduced a resolution--I'm  
9 surprised my friend from Missouri finds it so alarming.  
10 It simply says, it hopes that our, it assents of the Senate,  
11 "the representatives of the United States should proceed on  
12 an expedited and priority basis to conclude the negotiation  
13 of a mutually beneficial, comprehensive, bilateral trade  
14 agreement, between the United States and Canada." That's  
15 S. Res. 50.

16 I'm not finished.

17 (Pause)

18 Now, what I had in mind is the urgency with which it  
19 seems to me, our massively important relations with Canada  
20 are getting fowled up by shakes and shingles and a few  
21 bushels of corn. Enormous flows of capital. I mean, when  
22 the Chrysler Corporation bought the Renault Corporation,  
23 which involved the Jeep Corporation, they bought a plant in  
24 Canada. The integration of manufacturing and agriculture  
25 and trade, and so forth. It's incredibly important.

1 I've just been managing the conference on the highway  
2 bill and having the most, in sense say arguments--they are  
3 behind this--on movement of little bits of cement up across,  
4 up, north and south across this border of 2,500 miles,  
5 because limestone ridges are on either side of the border.

6 We're headed to tear up our most important economic  
7 relationship over nothings. Now, if we get this trade  
8 agreement soon, we might get out of this cycle. I know  
9 my friend, Mr. Durenberger. He says the Canadians have  
10 offered, have in effect placed countervailing measures on  
11 the import of corn. And he proposed that the President  
12 should direct the Secretary of Commerce to initiate a  
13 countervailing duty investigation also.

14 Well this is exactly what we don't want to get into --  
15 this back and forth, back and forth over small matters  
16 obscuring, making matters, making political positions  
17 untenable for the leaders of both countries.

18 Mr. Chairman, I will certainly withdraw the request to  
19 have S. Res. 50 considered if this whold matter, if  
20 Senator Durenberger indicates, as he probably does, that  
21 he would withdraw his. We can talk about these things.

22 But on the occasion of the visit of the foreign  
23 secretary to adopt a resolution that would make it difficult,  
24 that would be seen at home as a much larger event than it  
25 would be seen in this committee. I suggest to you that.

1           The Chairman. Let me say, Senator. We're running into  
2 a practical problem of a quorum here and our ranks are being  
3 decimated rapidly. I know Senator Danforth, Senator Baucus,  
4 and others have resolutions they want considered. With  
5 what you have offered and visiting with Senator Durenberger,  
6 I would urge that we delay the decision on this until next  
7 Tuesday, and if we let the Administration have a chance to  
8 appear before us and give us their comments as to how they  
9 think it should be resolved, because we do have a tough  
10 negotiation under way.

11           I also have considerable sympathy for what Senator  
12 Durenberger has offered in this regard. But I think the  
13 Administration deserves an opportunity to appear on it.  
14 And would urge that they delay the consideration until  
15 next Tuesday.

16           Senator Moynihan. Would I understand that both  
17 measures would be postponed?

18           The Chairman. Oh, absolutely. You'd have an opportunity  
19 and so would Senator Durenberger.

20           Senator Durenberger. Mr. Chairman, I think they are  
21 somewhat different issues, but, having been through the 10-10  
22 battle with all of the rest of you last year, I can understand  
23 why the chair respects the important role that this  
24 committee is playing in the U.S.-Canadian relations.

25           And so, I am willing to defer until Tuesday. But I

1 would hope that all of our colleagues will be here Tuesday  
2 to participate in this decision. And I intend to put my  
3 resolution and hope it's unanimously supported on Tuesday.

4 The Chairman. Good. I appreciate that gentlemen.  
5 I think the subject we have Tuesday on section 301 will be  
6 of sufficient interest that that will also bring members.  
7 Now we have --

8 Senator Moynihan. Mr. Chairman, I just have to make a  
9 point. I mean, it's likely to escape some members of this  
10 committee. It shouldn't have escaped President Reagan or  
11 Mr. Maroney. Tuesday is St. Patrick's Day. That is the  
12 day they meet in Quebec. And I shall not be on hand until  
13 the afternoon, on Tuesday afternoon. Is it possible that  
14 we can discuss this matter Tuesday afternoon? Or is it  
15 possible to be done Wednesday?

16 The Chairman. I think you'll have a problem with the  
17 floor at that time, but, yes, we can do that.

18 Mr. Lang. Mr. Chairman, I might mention that you also  
19 have a Trade hearing scheduled on Wednesday morning, the 18th.  
20 It's on a different subject, on worker rights and trade  
21 adjustments.

22 Senator Moynihan. Could we do it Wednesday, Mr.  
23 Chairman?

24 The Chairman. I have no objections if the Senator from  
25 Minnesota would agree to that. Let's have our meeting start

1 at 9:30 on Wednesday.

2 Mr. Lang. Very well.

3 The Chairman. And we'll take it from there.

4 Senator Danforth. Mr. Chairman, can we further say,  
5 let the world know that we've done this in the spirit of  
6 the St. Patrick's Day summit, as a gesture towards Canada.

7 The Chairman. Senator Danforth.

8 Senator Danforth. I think that this is an enormously  
9 serious and a very, very delicate subject. This committee  
10 dealt with this matter, whenever it was, a year ago, I  
11 guess. And it was very controversial, as the Chairman will  
12 remember and the ranking member will remember. We were  
13 taken up to the White House, we chattered on the subject,  
14 had meetings of the Senate behind closed doors on it.

15 It was very, very serious. I would guess that whenever  
16 this meeting occurs, it's going to be a matter on which there  
17 will be a considerable debate within the committee. I just  
18 wonder if setting aside a little time before another meeting,  
19 or after another meeting, is going to be --

20 The Chairman. It may not, Senator. But if it doesn't  
21 suffice, I'm sure that we will find additional time to  
22 further consider it. The committee is going to try to  
23 accommodate the concerns and the desires of the Senator  
24 from Minnesota and the Senator from New York.

25 Senator Packwood. Could I ask the Senator from New York

1 a question? This resolution doesn't look all that radical,  
2 as I'm looking at it. Are you asking nothing more than to  
3 encourage the Canadian and American representatives to hurry  
4 along on an expedited basis and attempt to conclude some  
5 mutually beneficial treaty?

6 Senator Moynihan. It is exactly that to say--good luck,  
7 keep going, we know you are there, we wish you well.

8 Senator Matsunaga. I'd like to add, Mr. Chairman, it's  
9 rather unbecoming of a Senator from New York.

10 The Chairman. Gentlemen. We could debate this one  
11 for some time, but we are really having trouble holding a  
12 quorum and we are going to get to it, and we've agreed to  
13 get to it on Wednesday. And the Senator from Montana has  
14 been waiting for some time to offer a resolution.

15 Senator Baucus. Mr. Chairman, it is very simple, I  
16 think, non-controversial men, but basically, in the eye of  
17 the Customs Service --

18 The Chairman. I'd like one of those.

19 (Laughter)

20 Senator Baucus. -- is to give the Ways and Means  
21 Committee 180 days notice of any intent of the Customs  
22 Service to close a port of entry or make a significant  
23 change in them.

24 Senator Packwood. I move it's adoption. It's a good  
25 proposal.

1 The Chairman. Is there objection to it?

2 Senator Chafee. Well, it's the old story, to do, to  
3 do what?

4 Senator Baucus. To give notice.

5 Senator Chafee. So, for six months they couldn't do  
6 anything.

7 Senator Baucus. That forces them to think a little  
8 earlier.

9 Senator Chafee. Six months. Is that right?

10 Senator Baucus. That's right.

11 Senator Chafee. We're the same group that's saying,  
12 let's get this budget under control, but--see, my Customs  
13 have been cut down as much as they have been cut, so I take  
14 a view that I like to share the pain. And I'm not sure.  
15 This is sort of like the closing of bases. I don't think  
16 it is good measure.

17 The Chairman. Are there further comments on it?

18 (No response)

19 The Chairman. All in favor of the resolution, make  
20 it known by saying aye.

21 (A chorus of "ayes")

22 The Chairman. Opposed.

23 (No response)

24 The Chairman. The motion carried. Senator Danforth.

25 Senator Danforth. Mr. Chairman, I have a S. Con. Res.

1 21, which is the oil fat resolution.

2 Senator Packwood. Oil what?

3 Senator Danforth. The oil fat resolution. This urges  
4 the Administration vigorously to impose the proposed  
5 European Community tax on oil fat, and further to notify  
6 the Community that it's implementation would be met with  
7 immediate retaliation.

8 Last weekend, Ambassador Yeutter acknowledged that the  
9 United States would, in fact, respond vigorously if the  
10 European Community adopts this tax.

11 Mr. Chairman, the largest single U.S. market for soy-  
12 beans is the European Community. Their proposal has been  
13 made within the European Community to impose a tax equal to  
14 approximately 90 percent of the current price of soybeans.

15 The purpose of the proposed tax would be to finance  
16 the common agricultural policy of the European Community  
17 with respect to the fat and oil sector. It is interesting  
18 that this proposed tax was announced less than three weeks  
19 after the settlement of what was about to be a major trade  
20 war between the United States and the European Community  
21 with respect to agricultural products.

22 At the time of that settlement, the Europeans  
23 specifically agreed to reaffirm their 1962 duty-free  
24 bindings on oil seed and oil meal. This is viewed as a  
25 very serious matter by American agriculture. It would



1 raise \$2.3 billion annually with a 90 percent increase of  
2 the tax on soybean oil.

3 And the point of the resolution is simply to urge the  
4 Administration vigorously to oppose the tax and to notify  
5 the Community that its implementation would be met by  
6 immediate retaliation.

7 The Chairman. I'd like to get a comment of staff  
8 concerning the resolution, please.

9 Mr. Lang. Mr. Chairman, we have no opposition to the  
10 resolution. We don't have a specific Administration comment  
11 on the resolution, but they have expressed great concern  
12 over a number of years, in fact, about these proposals to  
13 tax fats and oils in Europe, because they have a  
14 discriminatory affect on U.S. oil seed exports, for which  
15 the United States has a binding from the European Community.

16 (Pause)

17 Senator Chafee. Mr. Chairman.

18 The Senator. Yes.

19 Senator Chafee. I think Senator Danforth makes a very,  
20 very good point here as we understand it. But, I think in  
21 dealing with these matters that are of considerable  
22 importance that it behooves us to have the view of the  
23 Administration. And we seem to be proceeding here on the  
24 basis of what people have read in the Washington Post, or  
25 what somebody has heard Mr. Yeutter say here or there.

1           And these are very important resolutions coming from,  
2 what I consider to be, a very important committee here.  
3 And, if they are going to carry some weight, I think they  
4 should have the--we ought to at least know where the  
5 Administration stands and what their view is on something  
6 as significant as this.

7           Senator Danforth seems to make a very good point.  
8 But nobody from the Administration, nor can Mr. Lang tell  
9 us definitely what the Administration thinks on this. The  
10 Administration hasn't been heard. And we're trading in  
11 waters that I think are dangerous unless we know exactly  
12 what we're doing.

13           Mr. Lang. Mr. Chairman, I've been handed a press  
14 release issued by Ambassador Yeutter on March 2, 1987.  
15 And Ambassador Yeutter is quoted--it's a USTR Press Release--  
16 and Ambassador Yeutter in the press release as saying,  
17 "The proposed tax would have a severe impact on American  
18 soybean farmers. It clearly impairs our Gatt bindings.  
19 (Gatt bindings are commitments to hold duties at certain  
20 levels.) And it also violates the spirit of the standstill  
21 commitment we all made at Ponte del Este last year. The  
22 tax is simply a creative way of attempting to shoulder our  
23 soybean producers with a significant portion of the cost  
24 of the EC's common agricultural policy. That's an  
25 unacceptable situation for us, and it's enactment would

1 leave us no choice but to vigorously protect our trade  
2 rights and defend our access to the European market."

3 Senator Danforth. This resolution, I would submit,  
4 is precisely the position of the Administration.

5 Senator Chafee. Well, except as I read your  
6 resolution, it says, and will result in the adoption of  
7 strong and immediate counter-measures. How are we going  
8 to do the counter-measures?

9 Senator Danforth. We've still got to --

10 Senator Chafee. Is he going to do them? Or, is he  
11 going to bargain them out of it or --

12 Senator Danforth. John, this is a matter that is  
13 absolutely of the moment with respect to the European  
14 Community. There is a dispute within the European Community  
15 right now as to whether or not to impose this tax.

16 If it is imposed by the European Community--and the  
17 decision will be made this month whether to do it--it will  
18 be a major event. You don't abolish tariff findings that  
19 have been in place since 1962 and that were specifically  
20 reaffirmed as a part of the negotiations which some people  
21 complained about, that many people complained about, to  
22 avert trade war relating to the obsession of fame and  
23 fortune.

24 And then, three weeks later, put in place a process of  
25 abrogating those agreements, and putting in place that they

1 pass on vegetable oil. It just isn't done. And the  
2 question here is, do we say to the four or five countries  
3 in the European Community who have expressed opposition to  
4 this proposal, this is a major matter in the United States,  
5 and we would have to retaliate that as the will of the  
6 Finance Committee. That we say, well, we're --

7 Senator Chafee. No one is arguing about taking a  
8 position. I just think when we take positions, we ought  
9 to know exactly what we're doing and where things stand --  
10 not based on some press release on March 2nd.

11 Senator Danforth. This is not based on a press  
12 release. This is a, you know, your factual situation.  
13 It's a violation of power play.

14 Senator Chafee. I'd vote for the thing if I at least  
15 had heard from where the Administration stood. Maybe they  
16 are against it. Maybe they are for it. But I think,  
17 frankly, I don't think this is the committee that makes  
18 foreign policy. And we ought to hear--whether it's  
19 tomorrow or this afternoon--hear what these people think,  
20 who are running the show for us, or trying to run it.

21 The Chairman. Are there further comments?

22 Senator Matsunaga. Mr. Chairman,

23 The Chairman. Yes, Senator Matsunaga.

24 Senator Matsunaga. I feel that Senator Danforth has  
25 offered a good amendment and I would support it, but I am

1 inclined to agree more with Senator Chafee that we ought  
2 to have the views of the Administration expressed to this  
3 committee.

4 Senator Danforth. I withdraw the resolution.

5 The Chairman. Are there further amendments or  
6 resolutions to be brought before the committee?

7 Senator Danforth. Will there be an opportunity to  
8 raise this resolution next week?

9 The Chairman. Senator, I'll see that you have that  
10 opportunity.

11 Senator Armstrong. Mr. Chairman, may I please direct  
12 a question to Senator Danforth?

13 The Chairman. Yes, of course.

14 Senator Armstrong. What's your reason for withdrawing  
15 the act?

16 Senator Danforth. Because I really think that it is  
17 important for the Finance Committee to give a very strong  
18 statement. This is simply a sense of the Congress to report.

19 The Chairman. Let me interrupt. He doesn't have a  
20 quorum. And we'll take it up next week. I prefer to have  
21 a quorum.

22 Senator Danforth. While we're on the subject to a  
23 point of order, and also with the expression of some  
24 disagreement without the committee, I'd rather not send  
25 any message.

1           Senator Chafee. I just want to make it clear. I have  
2 never suggested raising any point of order.

3           The Chairman. I understand that you haven't raised  
4 a point of order.

5           Senator Chafee. As far as I'm concerned, if the votes  
6 are for the thing, three cheers. I'm not going to go on  
7 any procedural matter here. I just think that if we're  
8 proceeding around here, and, Mr. Chairman, if we have the  
9 time, I'd like to get back if I could to Senator Armstrong's  
10 resolution, which was not on the schedule.

11           We had three resolutions which was listed for our  
12 consideration, and up popped that one, which, I suppose was  
13 my fault. I wasn't here. But, it wasn't on the list, and  
14 I think it falls in the same category as the rest of them.

15           Senator Armstrong. No it doesn't, John, because I can  
16 tell you right now what their reaction to it will be. If  
17 you want to know the Administration's view of the Armstrong  
18 amendment, it is they are against it.

19           You don't have to ask them. I will just tell you that.

20           Senator Chafee. Well --

21           Senator Danforth. Mr. Chairman, let's just make it  
22 clear that in future hearings we always have somebody to  
23 speak for the Administration, because otherwise, we're not  
24 going to get anywhere.

25           The Chairman. Senator Danforth, I think that's good

1 advice, and I regret we didn't. I, frankly, didn't  
2 anticipate this many controversial resolutions. But,  
3 with that understanding that you are withdrawing the  
4 resolution, we will make time for it at quite an early  
5 date.

6 If there is nothing further to be brought before the  
7 committee, we will stand adjourned.

8 Senator Chafee. Mr. Chairman, could I just raise one  
9 point.

10 The Chairman. Yes.

11 Senator Chafee. On the Armstrong resolution, which I  
12 assume--not assume--I understand was adopted by a voice  
13 vote, and I was not here. I'd like to be recorded as being  
14 against it and think it was unfortunate that we adopted  
15 something like this, as significant as this, directing.  
16 Usually, we don't do things as specific as that. Here,  
17 we direct the Secretary of Treasury to prohibit. I mean,  
18 this is a major piece of legislation that we just put in  
19 here under the Armstrong amendment by a voice vote.

20 And I think it is very unfortunate. And if we have a  
21 quorum--and I assume we will have a quorum--I'm going to  
22 raise it again and see if we can reverse track, or at least  
23 we will hear from the Administration on this.

24 The Chairman. Are there further comments?

25 (No response.)

1           The Chairman. The Senator's comments are noted, and  
2 his vote will be so cited. And the committee will stand  
3 adjourned.

4           (Whereupon, at 11:08 a.m., the meeting was concluded.)  
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P R E S S   R E L E A S E

FOR IMMEDIATE RELEASE  
March 6, 1987

UNITED STATES SENATE  
COMMITTEE ON FINANCE  
SD-205 Dirksen Senate Office  
Building  
Washington, D.C. 20510

FINANCE COMMITTEE TO MARK UP CUSTOMS BUDGET,  
WORK ON OTHER TRADE AGENCY BUDGETS ALSO SET TO PROCEED

Washington, D.C. - Senator Lloyd Bentsen (D., Texas), Chairman of the Senate Finance Committee, announced Friday that the Committee will mark up legislation authorizing appropriations for the U.S. Customs Service on Wednesday, March 11, 1987.

The Chairman said the Committee will also mark up budgets for the U.S. International Trade Commission and for the Office of the U.S. Trade Representative at that time.

The mark up session is scheduled to begin at 9:30 a.m. in Room SD-215 of the Dirksen Senate Office Building.

"The Administration's proposed budget for the U.S. Customs Service is of particular concern in this markup," Bentsen said. "We have held four hearings on this particular subject this year as compared to only one hearing in previous years."

"There is concern that the Administration's budget proposal is grossly inadequate, that it does not provide the resources U.S. Customs needs to process commercial goods with all due speed while at the same time substantially increasing its efforts to prevent the entry of illegal drugs," Chairman Bentsen said.

P.R. #M-1

P R E S S   R E L E A S E

FOR IMMEDIATE RELEASE  
March 11, 1987

UNITED STATES SENATE  
COMMITTEE ON FINANCE  
SD-205 Dirksen Senate Office  
Building  
Washington, D.C. 20510

FINANCE COMMITTEE ORDERS FAVORABLY REPORTED AN ORIGINAL BILL  
AUTHORIZING APPROPRIATIONS FOR THE U.S. CUSTOMS SERVICE,  
THE OFFICE OF THE U.S. TRADE REPRESENTATIVE, AND THE  
U.S. INTERNATIONAL TRADE COMMISSION, AND FOR OTHER PURPOSES

Washington, D.C. - Senator Lloyd Bentsen (D., Texas), Chairman of the Committee on Finance, announced Wednesday that the Committee ordered favorably reported an original bill restoring funding to the U.S. Customs Service, rejecting cutbacks in appropriations and manpower requested by the Administration.

The Committee also authorized appropriations for two other trade agencies, the Office of the U.S. Trade Representative and the U.S. International Trade Commission, and favorably reported a non-binding resolution on semiconductors.

Authorizations of Appropriations

U.S. Customs Service.--The Committee ordered favorably reported an original bill authorizing fiscal year (FY) 1988 appropriations of \$1,035,211,000 for the U.S. Customs Service. This is an increase of \$145,911,000 over what the President's budget proposed for the Service, but represents no increase in personnel or level of services from the amount authorized by the Committee for the Customs Service for FY 1987. The President's budget request would have required a reduction in Customs Service personnel from 15,037 to 13,039.

The Committee bill also contains the following provisions with regard to the Customs Service authorization:

(1) An amendment by Senator Bentsen establishing a customs private sector advisory committee.--The Committee bill provides for the establishment of a 20-member private sector committee to advise the Secretary of the Treasury on matters relating to commercial operations of the Customs Service. The Secretary of the Treasury would be instructed to choose the members of the committee from among representatives of those businesses and organizations concerned about the commercial operations of the Customs Service. The amendment would provide for an annual report by the committee to the Congress, and would contain a "sunset" provision terminating the committee after two years unless it is re-authorized by the Congress.

(2) A Bentsen amendment clarifying the customs user fees law.--The Committee bill would add clarifying language to the customs user fees law to expressly provide that the fees are offsetting receipts to be used solely for salaries and expenses for commercial operations of the Customs Service and that the conveyance user fee be used first for reimbursing the Customs Service for overtime inspectional services, then for expenditures for commercial operations.

(3) An amendment by Senator Armstrong to prohibit imports of Soviet goods produced by forced labor.--The amendment would direct the Secretary of the Treasury to prohibit the importation from the Soviet Union of the following products, which are found to be made, wholly or in part, by convict labor, forced labor, or indentured labor under penal servitude in violation of U.S. law: Gold ore, agricultural machinery, tractor generators, tea, crude petroleum, motor fuel, and kerosene. A product could only be imported if the President certifies either that it is not being made with forced labor or that prohibiting importation directly affects the national security interests of the United States.

(4) An amendment by Senator Baucus to require Congressional notification of certain actions by Customs.--The amendment requires the Commissioner of Customs to notify the Senate Committee on Finance and the House Committee on Ways and Means at least 180 days in advance of taking any action which would result in a significant reduction in force of employees other than by means of attrition; result in any significant reduction in hours of operation or services rendered at any office of the Customs Service or any port of entry; eliminate or relocate any office of the Customs Service; eliminate any port of entry; or significantly reduce the number of employees assigned to any office of the Customs Service or any port of entry.

U.S. Trade Representative.--The bill authorizes appropriations for the U.S. Trade Representative (USTR) for FY 1988 of \$15,248,000, the amount requested in the President's proposed budget for USTR.

International Trade Commission.--The bill also authorizes \$35,386,000 for the International Trade Commission (ITC) for FY 1988, the amount requested by the ITC.

#### Resolution on the U.S.-Japan Agreement on Semiconductors

The Committee by voice vote ordered favorably reported S. Res. 164, a non-binding resolution sponsored by Senator Wilson and others, calling on the President to respond to violations by Japan of the July 1986 bilateral agreement on semiconductors.

Continuing of Markup

The Committee decided to continue the markup at 9:30 a.m. on Wednesday, March 18, 1987, preceding a hearing previously scheduled on that day concerning legislation on workers' rights and trade adjustment assistance. The agenda for the markup will be a discussion of certain resolutions raised by Senators today. These resolutions are S. Con. Res. 21, relating to practices of the European Community with regard to fats and oils, introduced by Senator Danforth; S. Con. Res. 27, relating to Canadian countervailing duty practices, introduced by Senator Durenberger; and S. Res. 50, in support of Canadian-American comprehensive trade negotiations, introduced by Senator Moynihan.

P.R. #M-2

A G E N D A

UNITED STATES SENATE  
COMMITTEE ON FINANCE

Wednesday, March 11, 1987

1. Fiscal year 1988 authorization of appropriations for the Office of the U.S. Trade Representative, the U.S. International Trade Commission, and the U.S. Customs Service (see staff document A).
  
2. A resolution, introduced by Senator Wilson, calling on the President to respond to the violations by Japan of the U.S.-Japan agreement on semiconductors (see document B).

March 11, 1987

FISCAL YEAR 1988 AUTHORIZATION OF APPROPRIATIONS  
FOR THE OFFICE OF THE U.S. TRADE REPRESENTATIVE,  
THE U.S. INTERNATIONAL TRADE COMMISSION,  
AND THE U.S. CUSTOMS SERVICE

(Prepared by the Staff of the Senate Committee on Finance)

U.S. Trade Representative (USTR)

Section 141(f) of the Trade Act of 1974 (19 U.S.C. 2171(f)) requires the annual authorization of appropriations for USTR. The USTR has requested an authorization of \$15,248,000 for fiscal year (FY) 1988, of which not to exceed \$69,000 may be used for entertainment and representation expenses. Authorization is also sought for the 1988 funds to be no-year funds (that is, they would remain available until expended) in order to allow USTR greater flexibility in timing expenditures for the Geneva office to take advantage of changes in the value of the Swiss franc compared to the dollar. The Subcommittee on International Trade of the Finance Committee held hearings on USTR's authorization request on February 27, 1987.

Explanation of budget.--The \$15,248,000 requested by USTR is an increase of approximately \$1,948,000 over the \$13,300,000 authorized for 1987. The increase reflects both non-discretionary cost increases and increases necessitated by the Uruguay Round multilateral trade negotiations. The non-discretionary component (\$1,398,000) includes increases for rent for USTR's Washington and Geneva, Switzerland, facilities and additional personnel costs necessitated by the Federal Employees Retirement System and the three percent 1987 pay raise. The additional \$550,000 for expenses related to the Uruguay Round include the addition of five personnel positions, a one-time expenditure for upgrading USTR's computer capacity, and an additional \$10,000 (for a total of \$69,000) for representation funds. (At the authorization hearing Deputy USTR Alan Woods testified that the Administration has requested 72 additional positions, at a cost of over \$4 million, for the International Trade Administration (ITA) of the Department of Commerce to assist in the Uruguay Round. The Administration is seeking to put these additional personnel in ITA rather than USTR in accordance with its policy of maintaining USTR as a "lean" operation.)

U.S. International Trade Commission (ITC)

Section 330(e)(1) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(1)) requires annual enactment of an authorization of appropriations for the ITC. Section 175 of the Trade Act of 1974 (19 U.S.C. 2232) requires that the ITC's estimated expenditures and proposed appropriations be included in the President's budget without revision. The Subcommittee on International Trade of the Finance Committee held hearings on authorization of appropriations for the ITC on February 27, 1987.

Explanation of budget.--The ITC has requested an authorization of \$35,386,000 for FY 1988, an increase of \$1,486,000 over the FY 1987 figure of \$33,900,000. All the increase is accounted for by non-discretionary factors, including increased rental costs following the ITC's move to new facilities in September 1987 (\$4,000,000 in no-year funds were appropriated to the ITC in FY 1987 to cover the costs of the move), and additional personnel costs associated with the Federal Employee Retirement System and the three percent 1987 pay raise. No increase in personnel is sought over the 502 positions already provided for in FY 1987.

U.S. Customs Service

Section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) requires annual enactment of an authorization of appropriations to the U.S. Customs Service. The 1986 Budget Reconciliation Act of 1986 amended section 301 to require that for all years after FY 1987, the authorization shall separately specify the amount authorized for salaries and expenses for commercial operations and the amount authorized for salaries and expenses for other than commercial operations (the purpose is to identify those operations to be funded out of the merchandise user fee account, which is dedicated for salaries and expenses for commercial operations). The Finance Committee held hearings on authorization of appropriations for Customs on February 11, 25, and 26, 1987.

Explanation of budget.--As approved in the continuing resolution (P.L. 99-591), the Customs Service's appropriation for FY 1987 is \$1,019,435,000. This would support a staffing level of 15,043 positions. For FY 1988, the President's budget proposes to reduce the appropriation for the Customs Service to \$899,786,000 and 13,047 average positions. This represents a reduction of \$119,649,000 and 1,996 average positions from the FY 1987 authorized level.

The total authorization needed for FY 1988 in order to maintain services at the FY 1987 level is \$1,035,211,000. Broken down by account, the "current services" levels, compared to the Administration's budget request, are:

	<u>President's Budget</u>	<u>Current Services</u>
Salaries and expenses	803,090,000	917,000,000
Air operations and maintenance	86,210,000	118,020,000

(Please note that two other accounts carried in Customs' budget request -- the Customs forfeiture fund and the small airports user fee account -- are permanently authorized and do not require Committee action.)

The authorization is required to specify the amount for salaries and expenses to be available for commercial operations and the amount to be available for all other purposes. Those figures are as follows:

	<u>President's Budget</u>	<u>Current Services</u>
Commercial operations	499,198,000	559,000,000
Other	303,982,000	358,000,000

The Administration's FY 1988 proposal for the Customs Service includes a request that the authorization specifically provide for: (1) Purchase of 490 "police-type" vehicles "without regard to the general purchase price limitation for the current fiscal year"; (2) hire of passenger motor vehicles; (3) up to \$10,000 for "official reception and representation expenses"; and (4) authorization to make awards to informers. The Administration request also includes a provision, required by Congress for the last several years, that overtime pay not exceed \$25,000 per year for any employee except as allowed by the Commissioner to prevent excessive costs or to meet emergency requirements.

Another provision that was in last year's authorization bill is not included in Customs' authorization request, however. That specified that no sum appropriated may be used to close any port of entry at which, during the previous fiscal year, not less than 2,500 merchandise entries (including informal entries) were made and not less than \$1,500,000 in customs revenues were assessed.



House and Appropriations Committee Action

Neither the House of Representatives nor the Senate Appropriations Committee has yet acted on the requested budgets for these agencies. The House Ways and Means Committee staff has informed us that they do not anticipate conducting a mark-up on the authorization bill until at least April. Appropriations Committee staff has told us that a subcommittee mark-up on the appropriations bill is expected around early May.

100th CONGRESS

1st SESSION

## S. RES. \_\_\_\_\_

(NOTE.—Fill in all blank lines except those provided for the date, number, and reference of resolution.)

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 IN THE SENATE OF THE UNITED STATES
 

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Mr. Wilson (for himself and Mr. McCain, Mr. Mitchell,  
Mr. Danforth, Mr. Domenici, Mr. Bentsen, Mr. Bingaman,  
Mr. Wirth, and Mr. Rockefeller  
 submitted the following resolution; which was \_\_\_\_\_

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Calling on the President to respond to the violations by Japan of the U.S.-Japan agreement on semiconductors.

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Whereas the maintenance of a healthy domestic semiconductor industry is essential to the development of the United States economy and the preservation of the national security of the United States;

Whereas the United States semiconductor industry is a world leader in semiconductor technology and has demonstrated its competitiveness in all markets to which it has free access;

Whereas concurrent with three antidumping cases filed against Japanese companies in 64K DRAMS, EPROMs and 256K and above DRAMS, the United States Trade Representative on July 11, 1985 initiated an investigation into Japanese dumping of semiconductors in the U.S. market and lack of access for U.S. companies to the Japanese semiconductor market pursuant to Section 301(d)(2) of the Trade Act of 1974, as amended;

Whereas on September 2, 1986, the Ambassador of Japan to the United States and the United States Trade Representative signed the Agreement between the Government of Japan and the Government of the United States of America concerning Trade in Semiconductor Products which has been determined by the President to be an appropriate response to the practices of the Government of Japan with respect to trade in semiconductors, pursuant to Section 301(d)(2) of the Trade Act of 1974, as amended;

Whereas in return for a Japan's pledge of increased sales in the Japanese market and avoidance of dumping in all markets, the Administration waived the imposition of dumping duties in two antidumping cases and suspended action under Section 301;

Whereas during the last six months, collection of substantial dumping penalties against Japanese companies have been foregone;

Whereas during the last six months dumping has continued and there has been no increase in access to the Japanese market;

Whereas these acts represent violations of a trade agreement negotiated pursuant to the provisions and authority of Section 301 of the Trade Act of 1974, as amended;

Whereas the President has determined that any failure by the Government of Japan to meet the commitments and objectives of the Agreement would be inconsistent with a trade agreement or an unjustifiable act that would burden or restrict U.S. commerce;

Whereas the faithful implementation of the commitments and objectives of the Agreement is the only effective means of addressing the twin problems of access for foreign semiconductor companies to the Japanese market and the prevention of dumping of semiconductors by Japanese companies; and

Whereas the Government of Japan has failed to meet the commitments that it made in the Agreement signed on September 2, 1986: Now therefore be it

Resolved, that it is the Sense of the Senate that --

The President should immediately take all appropriate and feasible actions under Section 301 of the Trade Act of 1974 --

- (A) to remedy and prevent further violation of the Agreement by Japan;
- (B) to serve as an incentive for compliance;
- (C) to compensate the United States for the harm suffered on account of non-compliance by Japan; and
- (D) to prevent further injury to the United States;

Such actions should serve to increase, rather than restrict, international semiconductor trade and be aimed at enforcing commitments and achieving the objectives of the Agreement, both with respect to market access and the prevention of dumping in the United States and other markets;

Such actions should be focused so as to directly penalize those who have acted inconsistently with the terms of the Agreement; and

Such actions may be directed at products which contain semiconductors so as avoid any adverse effects on U.S. semiconductor users.

Senator Baucus' Amendment to U.S. Customs Service Authorization

CONGRESSIONAL NOTICE OF CERTAIN ACTIONS. - The Commissioner of Customs shall notify the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives at least 180 days prior to taking any action which would -

(1) result in any significant reduction in force of employees other than by means of attrition,

(2) result in any significant reduction in hours of operation or services rendered at any office of the United States Customs Service or any port of entry,

(3) eliminate or relocate any office of the United States Customs Service,

(4) eliminate any port of entry, or

(5) significantly reduce the number of employees assigned to any office of the United States Customs Service or any port of entry.

EUROPEAN COMMUNITY CONCURRENT RESOLUTION  
FATS AND OILS TAX

DANFORTH

A concurrent resolution expressing the sense of Congress in opposition to the proposal by the European Community for the establishment of a tax on vegetable and marine fats and oils and urging the President to take strong and immediate countermeasures should such a tax be implemented to the detriment of United States exports of oilseeds and products and inconsistently with the European Community's obligations under the General Agreement on Tariffs and Trade.

Whereas, in 1962 the United States negotiated duty-free bindings for oilseeds and oilmeals in the European Community;

Whereas, the European Community is our most important market for soybeans, representing about 45 percent of total United States soybean exports;

Whereas, in the recently concluded negotiations under Article XXIV:6 of the General Agreement on Tariffs and Trade the European Community agreed to restore the duty-free bindings for oilseeds and meals and extend them to Spain and Portugal;

Whereas, the Commission of the European Community has now proposed the establishment of a consumption tax on vegetable and marine fats and oils in conjunction with the setting of farm prices for the 1987/88 marketing year in the Community;

Whereas, this tax would amount to almost 90 percent of the current price of soybean oil;

Whereas, this tax would have a significant restrictive effect on United States exports of oilseeds and products, in particular on soybeans, to the European Community;

Whereas, the implementation of this tax would be blatantly inconsistent with the obligations of the European Community under the General Agreement on Tariffs and Trade;

Whereas, the Commission's proposal would constitute another egregious attempt to impose the cost of the Common Agricultural Policy on the European Community's trading partners;

Whereas, the United States has strenuously opposed similar proposals by the European Community in the past;

Whereas, this measure would affect the livelihood of over 500,000 farmers in the United States, as well as many more in developing countries;

Whereas, the United States has consistently maintained the position that any attempt by the European Community to impose a tax on fats and oils would invite strong and immediate countermeasures;

Now, therefore, be it resolved by the Senate with the House of Representatives concurring, That it is the sense of Congress that--

(1) the Administration should vigorously oppose the establishment of a tax on vegetable and marine fats and oils in the European Community;

(2) the Administration should continue in its efforts to ensure that such a tax is not established; and

(3) the Administration should communicate to the European Community the message that the United States will view the establishment of such a tax as inconsistent with the European Community's obligations under the General Agreement on Tariffs and Trade that will result in the adoption of strong and immediate countermeasures.

SECTION 2: The Secretary of the Senate will transmit copies of this resolution to the President, the Secretary of State, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of the Treasury, the United States Trade Representative, the Head of the Delegation of the European Community to the United States, and the Ambassadors to the United States for each of the Member States of the Community.

Sec. The Congress finds that the Commissioner of Customs has reported to the Secretary of the Treasury that the Commissioner has information that reasonably, even if not conclusively, indicates the following goods, ware, articles and merchandise from the Union of Soviet Socialist Republics are being made wholly or in part by convict labor or/and forced labor or/and indentured labor under penal sanctions, and directs the Secretary of the Treasury to immediately prohibit the importation of:

(a) gold ore (provided for in item 601.39 of the Tariff Schedules of the United States);

(b) agricultural machinery (provided for in item 666.000 of such Schedules);

(c) tractor generators (provided for in item 683.00 of such Schedules);

(d) tea (provided for in item 160.50 of such Schedules);

(e) crude petroleum (provided for in item 475.05 or 475.10 of such Schedules);

(f) motor fuel (provided for in item 475.25 of such Schedules);

and

(g) kerosene (provided for in item 475.30 of such Schedules).

Sec. The product or products listed in Section \_\_\_ may be imported into the United States if the President certifies to Congress that:

(a) information available to him clearly shows that the product or products are not being made wholly or in part with convict labor or/and forced labor or/and indentured labor under penal sanctions in the Union of Soviet Socialist Republics; or



(b) prohibiting importation of the product or products directly affects the national security interests of the United States.

STATEMENT OF THE HONORABLE LLOYD BENTSEN AT THE  
FINANCE COMMITTEE MARKUP ON AUTHORIZATION OF APPROPRIATIONS  
FOR THE U.S. INTERNATIONAL TRADE COMMISSION, THE OFFICE OF  
THE U.S. TRADE REPRESENTATIVE, AND THE U.S. CUSTOMS SERVICE

WEDNESDAY, MARCH 11, 1987

THIS MORNING THE COMMITTEE WILL BE MARKING UP A BILL, AS WE MUST EVERY YEAR, AUTHORIZING APPROPRIATIONS FOR THREE INTERNATIONAL TRADE AGENCIES -- THE CUSTOMS SERVICE, THE U.S. TRADE REPRESENTATIVE, AND THE INTERNATIONAL TRADE COMMISSION. AS HAS BEEN THE CASE EVERY YEAR SINCE THE PRESENT ADMINISTRATION TOOK OFFICE, THE PRESIDENT'S BUDGET FOR ONE OF THESE AGENCIES, THE CUSTOMS SERVICE, PROPOSES DRASTIC CUTBACKS IN FUNDING AND MANPOWER. THE ADMINISTRATION INTENDS TO CUT 2,000 PERSONNEL POSITIONS FROM THOSE AUTHORIZED BY THE CONGRESS JUST LAST YEAR.

IN THREE DAYS OF COMMITTEE HEARINGS THIS YEAR ON THE CUSTOMS SERVICE, IT HAS BECOME PAINFULLY CLEAR THAT THE POLICY CALLING FOR THESE CUTS IS BOTH SHORTSIGHTED AND UNACCEPTABLE. IT IS SHORTSIGHTED IN ITS CONTINUED ASSUMPTION THAT THESE CUTS ARE A MEANS TO TRIM OUR FEDERAL BUDGET, BECAUSE EVERY DOLLAR SPENT ON THE CUSTOMS SERVICE RETURNS \$17 IN TARIFFS AND FEES. IT IS UNACCEPTABLE BECAUSE THE CUSTOMS SERVICE IS IN DANGER OF LOSING ALTOGETHER ITS ABILITY TO DO THE JOB THE PUBLIC EXPECTS OF IT.

AT OUR HEARINGS, WITNESSES CONFIRMED THAT EMPLOYEE MORALE IS LOW, AND THE SERVICE'S CORE OF KNOWLEDGEABLE, EXPERIENCED MID-CAREER EMPLOYEES IS BEING DRIVEN OFF. WE ARE TOLD THAT AT LEAST 65 PERCENT OF ALL IMPORT ENTRIES NOW COME IN WITHOUT ANY REVIEW TO DETERMINE THE APPROPRIATE CLASSIFICATION OR DUTY, AND ONLY 2 PERCENT OF ALL IMPORTS RECEIVE PHYSICAL INSPECTION OF EVEN THE MOST RUDIMENTARY KIND.

THE ADMINISTRATION TELLS US, THOUGH, THAT INCREASED AUTOMATION IS MAKING IT POSSIBLE TO DO MORE WORK WITH LESS PEOPLE, TO GET MORE BANG FOR THE BUICK. I SUPPORT ALL REASONABLE EFFORTS TO STREAMLINE THE WORK OF THE CUSTOMS SERVICE. COMPUTERS ENABLE CUSTOMS PERSONNEL TO DO THEIR JOBS MORE EFFICIENTLY. BUT COMPUTERS CANNOT REPLACE PEOPLE. A MACHINE CANNOT INSPECT GOODS, IT CANNOT CLASSIFY IMPORTED MERCHANDISE, AND IT CANNOT FLY AN AIRPLANE IN OUR WAR ON DRUGS. ONLY PEOPLE CAN DO THESE THINGS, AND NO ADMINISTRATION SPOKESMAN HAS YET DEMONSTRATED THAT ANY OF THESE TASKS CAN ADEQUATELY BE DONE AT PRESENT WITH FEWER PEOPLE.

THIS COMMITTEE TOLD THE ADMINISTRATION LAST YEAR THAT IT IS HIGH TIME TO GET SERIOUS ABOUT THE VITAL ROLES FILLED BY THE CUSTOMS SERVICE. TOO MUCH IS AT STAKE. THE LACK OF RESOURCES TO PROCESS, CLASSIFY AND INSPECT IMPORTS ENDANGERS THE CREDIBILITY OF OUR ENTIRE SYSTEM OF TRADE LAWS. THE LACK OF RESOURCES TO INTERCEPT AND PUNISH THOSE WHO SMUGGLE ILLEGAL DRUGS INTO OUR COUNTRY ENDANGERS OUR FAMILIES, OUR SCHOOLS, OUR CHILDREN.

I BELIEVE THE MEMBERS OF THIS COMMITTEE ARE READY TODAY TO PROVIDE THE CUSTOMS SERVICE THE RESOURCES TO PUT ITS DEDICATED EMPLOYEES EFFECTIVELY BACK TO WORK ON THESE IMPORTANT TASKS.

STATEMENT OF THE HONORABLE LLOYD BENTSEN  
REGARDING CUSTOMS USER FEE AMENDMENTS  
MARCH 11, 1987

I AM PROPOSING AN AMENDMENT TO ADD CLARIFYING LANGUAGE REGARDING THE CUSTOMS USER FEES.

CONGRESS INTENDED, IN ENACTING THE CUSTOMS USER FEE ACCOUNT, TO MAKE THE FEES OFFSETTING RECEIPTS, NOT A NEW SOURCE OF REVENUE. IT WAS INTENDED THAT THE FEES BE AVAILABLE ONLY FOR SALARIES AND EXPENSES FOR CUSTOMS COMMERCIAL OPERATIONS. MOREOVER, IT WAS INTENDED THAT THE USER FEES ON CONVEYANCES THAT ARE NOT NEEDED TO REIMBURSE CUSTOMS FOR EXPENSES INCURRED IN PROVIDING OVERTIME SERVICES BE PART OF THE GENERAL USER FEE ACCOUNT AND BE USED FOR COMMERCIAL OPERATIONS.

THE OFFICE OF MANAGEMENT AND BUDGET HOWEVER, HAS NOT TREATED THE USER FEES AS OFFSETTING RECEIPTS AVAILABLE ONLY FOR COMMERCIAL SERVICES, AND HAS NOT TREATED THE CONVEYANCE USER FEES IN SUCH A MANNER THAT FEES NOT USED FOR OVERTIME EXPENSES GO FOR COMMERCIAL OPERATIONS. THEY HAVE TREATED THE FEES AS REVENUES FOR THE GENERAL FUND.

I WOULD ADD LANGUAGE MAKING THE CONGRESSIONAL INTENT UNMISTAKABLE.

STATEMENT OF THE HONORABLE LLOYD BENTSEN  
REGARDING CUSTOMS PRIVATE SECTOR ADVISORY COMMITTEE  
MARCH 11, 1987

I WISH TO PROPOSE AN AMENDMENT CREATING A PRIVATE SECTOR COMMITTEE TO ADVISE THE CUSTOMS SERVICE ON COMMERCIAL OPERATIONS.

IN HEARINGS BEFORE THIS COMMITTEE, IT HAS BECOME CLEAR THAT THE AGENCY IS INCREASINGLY OUT OF TOUCH WITH THOSE IT IS MEANT TO SERVE. I BELIEVE THE MANAGEMENT OF THE SERVICE COULD BE GREATLY IMPROVED BY APPLICATION OF THE EXPERTISE AND SUGGESTIONS OF KNOWLEDGEABLE MEMBERS OF THE PRIVATE SECTOR. AN ADVISORY COMMITTEE WOULD BE A STRUCTURED WAY OF GUARANTEEING THAT INTERESTED PERSONS AND GROUPS WOULD GET THE EAR OF THE CUSTOMS SERVICE.

THE MEMBERSHIP OF THE COMMITTEE WOULD BE DRAWN FROM AMONG REPRESENTATIVES OF THOSE BUSINESSES AND ORGANIZATIONS CONCERNED ABOUT THE COMMERCIAL OPERATIONS OF THE CUSTOMS SERVICE, AND WOULD BE CHOSEN BY THE SECRETARY OF THE TREASURY WITH THE ADVICE OF THE ASSISTANT SECRETARY OF THE TREASURY FOR ENFORCEMENT. THE SECRETARY WOULD BE INSTRUCTED TO CHOOSE PEOPLE FROM A VARIETY OF THOSE AFFECTED BY CUSTOMS SERVICE OPERATIONS AND FROM BOTH POLITICAL PARTIES.

UNDER THE FEDERAL ADVISORY COMMITTEE ACT, SUCH COMMITTEES ORDINARILY ARE SUBJECT TO A "SUNSET" PROVISION THAT REQUIRES THEM TO BE RE-AUTHORIZED EVERY TWO YEARS, UNLESS THEY ARE EXEMPTED FROM THIS REQUIREMENT. I WOULD PROPOSE TO RETAIN THE SUNSET PROVISION, WHICH WOULD REQUIRE THIS COMMITTEE TO REVIEW THE OPERATION OF THE PRIVATE SECTOR COMMITTEE ON A REGULAR BASIS TO DETERMINE WHETHER IT IS SERVING ITS PURPOSE WELL.

SENATE CONCURRENT RESOLUTION 27—EXPRESSING THE SENSE OF THE SENATE THAT THE U.S. DEPARTMENT OF COMMERCE AND SPECIAL TRADE REPRESENTATIVE SHOULD INITIATE INVESTIGATIONS OF CANADIAN AGRICULTURAL SUBSIDIES

Mr. DURENBERGER submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 27

Whereas the United States and Canada are signatories to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade ("Subsidies Code");

Whereas the Subsidies Code provides that a countervailing duty cannot be imposed unless (1) there is injury within the meaning of Article VI of the General Agreement as interpreted by the Code and (2) a causal link is established between the allegedly subsidized imports and the alleged injury;

Whereas global production and stagnant demand has led to a major oversupply of corn and a depressing of worldwide prices for corn;

Whereas the oversupply of corn cannot be attributed to the actions of the United States which has since 1982 imposed major acreage reductions in an effort to control production;

Whereas between 1982 and 1985, the United States, idled 44 million acres of corn acreage which would have produced 110 million tons of corn;

Whereas between 1982 and 1985, the United States, while acting to limit its production has witnessed a decline in corn exports of 30 million tons or nearly 50 percent;

Whereas U.S. exports of corn to Canada peaked in 1980-81, when U.S. corn exports to Canada totalled 1,363,500 tons and accounted for 22.5 percent of the Canadian market;

Whereas U.S. exports of corn to Canada have been declining sharply since 1981, falling to 822,200 tons in 1982-83, then declining to 225,900 tons in 1983-84 and 300,000 tons in 1985-86;

Whereas the share of the Canadian corn market held by the United States has been steadily declining from 22.5 percent in 1980-81 to 11.22 percent in 1982-83, 3.94 percent in 1983-84, and 4.42 percent in 1985-86;

Whereas Canadian corn industry production has steadily expanded from 5,753,200 tons in 1980-81 to 7,393,400 tons in 1985-86;

Whereas Canadian corn exports rose from 180,300 tons in 1976-77 to a peak of 1,134,000 tons in 1981-82, then dipped slightly before reaching 650,000 tons in 1985-86;

Whereas there is no causal link between imports of corn from the United States and injury to the Canadian corn industry;

Whereas the Canadian Department of National Revenue has ruled that the Canadian corn industry has been injured by American agricultural programs and has approved a tariff of 84.9 cents per bushel on American exports of corn to Canada;

Whereas the decision of the Canadian Department of National Revenue appears to be arbitrary, capricious and an abuse of discretion: Now, therefore be it

Resolved, by the Senate with the House of Representatives concurring, That it is the sense of Congress that—

(1) The President should direct the Secretary of Commerce to initiate a Countervailing Duty Investigation under Section 701 of the Tariff Act of 1930 of subsidized agriculture imports from Canada which benefit from Canadian price support programs; and/or

(2) the President should direct the United States Trade Representative to immediately initiate an investigation under Section 301 of the Trade Act of 1974 to determine whether agriculture programs operated by the Canadian federal and provincial governments constitute an unfair and unjustifiable trade practice.

SEC. 2. The Secretary of the Senate will transmit copies of this resolution to the President, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Treasury, the United States Trade Representative, and the Canadian Ambassador to the United States.

100TH CONGRESS  
1ST SESSION

# S. RES. 50

In support of Canadian-American comprehensive trade negotiations.

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IN THE SENATE OF THE UNITED STATES

JANUARY 6, 1987

Mr. MOYNIHAN submitted the following resolution; which was referred to the  
Committee on Finance

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## RESOLUTION

In support of Canadian-American comprehensive trade negotiations.

Whereas, (1) the United States-Canada bilateral trade relationship is of vital importance to both countries since—

(a) the United States-Canadian trade relationship is the largest in the world, with bilateral merchandise trade exceeding \$100,000,000,000;

(b) Canada and the United States are each other's largest export market;

(c) approximately two million jobs in each country depend on exports to the other country;

(d) more than three-quarters of Canada's exports—representing one-third of her gross national product—are sent to the United States;



(e) more than one-fifth of United States' exports are sent to Canada and approximately 85 per centum of these are manufactured goods; and

(f) more than 75 per centum of direct foreign investment in Canada is by the United States while Canadian direct investment in the United States is the third largest source of foreign investment funds.

- (2) Although trade between the United States and Canada is relatively free, both countries could benefit from expanded trade in goods and services.
- (3) A comprehensive bilateral trade agreement encompassing tariff and nontariff matters presents the best opportunity of resolving trade problems which threaten expanded trade between the two countries—

(a) although by 1987, when the Tokyo round tariff reductions have been fully implemented, approximately 80 per centum of Canada's exports to the United States and 65 per centum of United States exports to Canada will enter duty free, further reductions in remaining Canadian tariffs (on average 9 per centum) and United States tariffs (on average 4-5 per centum) could further promote trade;

(b) an agreement could also address Canadian nontariff barriers such as Government procurement policies, State monopolies, technical standards, and processing requirements, as well as restrictions on investment and services, product subsidization and failure to protect intellectual property rights; and

(c) an agreement could also address Canadian concerns with securing access to the United States market which may be denied as a result of the imposition of import limitations or Government policies on procurement or investment, as well as developing more predictable rules under which bi-

lateral trade is conducted and future disputes might be settled.

- (4) On September 26, 1985, Canadian Prime Minister Brian Mulroney announced his decision to pursue a comprehensive trade agreement "involving the broadest possible package of mutually beneficial reductions in tariff and nontariff barriers" to trade in goods and services and President Reagan immediately welcomed Mulroney's proposal for the negotiation of a comprehensive trade agreement.
- (5) Informal discussions between representatives of the two countries occurred through May 1986 and formal negotiations were begun in June 1986.
- (6) Representatives of the two countries have met for discussions six times and, while progress has been made, further discussion is required and resolution of the issues remains elusive.
- (7) Expressions of support for the negotiation of an agreement would be helpful in expediting the process: Now, therefore, be it

1       *Resolved*, That it is the sense of the Senate that the  
2 representatives of the United States should proceed on an  
3 expedited and priority basis to conclude the negotiation of a  
4 mutually beneficial comprehensive bilateral trade agreement  
5 between the United States and Canada.

○