

1 EXECUTIVE COMMITTEE SESSION
2 THURSDAY, APRIL 30, 1987
3 Senate Finance Committee
4 Washington, D.C.

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

8 Present: Senators Bentsen, Matsunaga, Moynihan, Baucus,
9 Boren, Bradley, Mitchell, Pryor, Riegle, Daschle, Packwood,
10 Roth, Chafee, Heinz, Wallop, and Durenberger.

11 Also present: Bill Wilkins, Staff Director; Jeff Lang,
12 Chief, International Trade Counsel, Mike Mabile, Trade Counsel,
13 Josh Bolten, Trade Counsel, Minority; Karen Phillips and
14 Brad Figel, Trade Staff, Minority.

15 Also present: Alan Woods, Deputy U.S.T.R.; Alan Holmer,
16 Chief Counsel, U.S.T.R.

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1 The Chairman. Will those standing please take a seat and
2 please conversation? Then we will get this hearing underway.

3 As we closed yesterday, we had been discussing
4 Senator Chafee's amendment. It was the pending amendment,
5 and then we had further comments by Senator Durenberger as to
6 one that he proposes to, as I recall, delete the entire
7 targeting provision. But I would like to proceed on Senator
8 Chafee's amendment, and if it prevails we will recognize
9 Senator Durenberger for an up or down on the entire.

10 Senator Chafee. Yes. Thank you, Mr. Chairman.

11 As you recall, what my amendment did was to say that, if
12 the President decides -- and a copy of this will be passed
13 around -- if the President decides that the export targeting
14 exists but that he does not choose to take retaliatory action,
15 then he has to convene the private sector panel to advise him
16 within six months on non-trade measures to restore the
17 competitiveness of the U.S. industry that is the victim of the
18 targeting.

19 What do we mean by non-trade measures? Well, they could
20 be regulatory relief, or preferential government procurement,
21 or worker retraining -- we have probably taken care of that --
22 or R&D support. Those are some of the options.

23 Now, Mr. Chairman, when I proposed this amendment there
24 was some concern evidenced that the President must implement
25 these. In the amendment that I have circulated to you, that

1 becomes optional, and that is the President may do this; this
2 gives him these options. And I would amend my amendment to
3 that extent.

4 The Chairman. With no objection, that will be accepted
5 as an amendment to his amendment.

6 Are there further comments on the proposal of Senator
7 Chafee?

8 Senator Durenberger. Mr. Chairman, just very briefly and
9 I will leave my other arguments until later, I support
10 Senator Chafee's amendment. I think it recognizes the
11 realities of targeting, which my amendment does also. So,
12 I intend to support it, and I think we all should.

13 The Chairman. Thank you.

14 Are there further comments?

15 (No response)

16 The Chairman. If not, do you move the amendment?

17 Senator Chafee. I do, Mr. Chairman.

18 The Chairman. All in favor of the motion, indicate by
19 saying Aye.

20 (Chorus of Ayes)

21 The Chairman. Opposed?

22 (No response)

23 The Chairman. Motion carried.

24 Senator Durenberger?

25 Senator Durenberger. Thank you, Mr. Chairman. And I

1 intend to be brief.

2 My amendment simply deletes section 305(c) of S. 490 as
3 it relates to defining export targeting as an unreasonable
4 practice.

5 Yesterday we had a very interesting discussion on whether
6 we in this country could respond to Japanese industrial
7 targeting practices by adopting similar partnerships between
8 government, finance, and business; but Ambassador Woods
9 correctly noted, if we adopt the targeting language in the
10 bill, our trading partners could easily adopt mirror
11 legislation that could be used to challenge, as unlawful,
12 U.S. Government policies that benefit, for example, our timber,
13 oil, rice, and semiconductor industries.

14 I don't want to prolong the debate over whether this
15 country has the capability and the political will to meet the
16 challenge from Miti or say some of the more socialized
17 countries of Eastern Europe and other parts of the world by
18 adopting practices similar to those used by Miti. But I
19 think it would be unwise to close off the option of doing
20 something on purpose for the United States, unless we can be
21 assured that other governments abandon their targeting efforts.

22 Last year we spent a great deal of time in this committee
23 trying to level the domestic economic playing field by making
24 the Tax Code more neutral in its effect on U.S. industries.
25 As legislators we made it within our power to make such

1 decisions which affect our domestic industries. But I would
2 suggest that we in the United States Congress are not
3 capable of outlawing foreign government actions that are
4 inconsistent with our conception of what the relationship
5 between government and business ought to be.

6 I would be happy to withdraw my amendment to strike the
7 targeting language in S. 490, if there was a way I could be
8 assured that by outlawing targeting, Japan would close Miti --
9 or France or West Germany and Great Britain would cease
10 targeting the computer and microelectronics industries, or that
11 South Korea would no longer target machine tools and
12 automobiles. But until I am assured, Mr. Chairman, that other
13 countries will end their targeting practices, it seems
14 unreasonable for the United States to close this policy option
15 for ourselves while the global economy playing field is
16 unbalanced.

17 One of the principal negotiating objectives, Mr. Chairman,
18 for the upcoming GATT Round that we have set in S. 490 is a
19 revision of the Gatt Articles necessary to define and
20 discipline adverse trade effects resulting from targeting.

21 In my opinion, the Uruguay Round is the appropriate
22 place to settle this issue, not the Finance Committee. If we
23 are to see an end to industrial targeting by our trading
24 partners, we are going to have to negotiate with them to end
25 this practice, and I would suggest it is shortsighted to go

1 to the bargaining table without having the option of telling
2 them: "If you don't end your targeting practices, we in the
3 United States will use our financial and political resources
4 to match your targeting efforts."

5 Mr. Chairman, outlawing a foreign government practice
6 does not necessarily mean the end of that practice. In 1928
7 the United States signed the Kellogg-Brion Pact outlawing war.
8 We know that didn't lead to resolving that problem. And the
9 same, I would say, holds true for targeting.

10 If we can't get our trading partners to make concrete
11 commitments to end targeting, then I believe we as a nation
12 will have to reconsider how we respond to foreign government
13 targeting, and I would suggest that the appropriate action for
14 us to take is to delete the reference to targeting as an
15 unfair practice.

16 The Chairman. What page are we on, Mr. Lang?

17 Mr. Lang. On page 63 at the middle of the spreadsheet
18 you will find the provision of the Bentsen/Danforth bill on
19 targeting.

20 Senator Chafee. Mr. Chairman?

21 The Chairman. Yes, Senator Chafee.

22 Senator Chafee. At your convenience I would be prepared
23 to address this.

24 The Chairman. That is fine, Senator; you are recognized
25 for that purpose.

1 Senator Chafee. Mr. Chairman, this is a major point,
2 as we noted yesterday, that Senator Durenberger is raising.
3 The question is whether we are going to make targeting
4 actionable on behalf of the U.S., or whether we leave it out
5 and we try countertargeting by us targeting.

6 Mr. Chairman, I just think that is wishful thinking, that
7 we are going to be successful at this business. I think we
8 all know that as soon as there is any suggestion of the
9 U.S. Government picking winners or losers, that the decision
10 is to stay out of that business and let the free market work.
11 However, there is no question but what other countries are
12 targeting. We have mentioned Japan, but that is not the only
13 one. And it is the ultimate of a mercantilistic act. It is
14 a decision by a government to make its producers of certain
15 products competitive on a world-wide basis; and furthermore,
16 it is going into future industries that this comes up --
17 whether it is fiberoptics, semiconductors, superconductors, or
18 supercomputers. Whatever it is, these are the things that
19 are chosen to target.

20 Mr. Chairman, this is going to be an increasing practice
21 unless the United States takes action and is prepared to take
22 action as provided for in this legislation that makes it an
23 actionable measure under 301.

24 I think we would be making a serious mistake, Mr. Chairman,
25 if we dropped this; because I believe, as I stated in the

1 beginning of my remarks, that the U.S. is just not going to
2 be successful at this kind of game.

3 The Chairman. Further comments? Senator Moynihan?

4 Senator Moynihan. Mr. Chairman, just as a question of
5 fact, what is "targeting"? Could Ambassador Woods tell us?
6 Are we being targeted? What is "targeting" as against
7 "merchandising"?

8 Mr. Woods. Senator, our problem with this amendment and
9 with this provision of the bill is that, first of all, we
10 believe that targeting is actionable already under section 301
11 of the trade laws.

12 Senator Moynihan. It so says, yes. But what is
13 "targeting"?

14 Mr. Woods. That is the problem, that this business tries
15 to define it.

16 I recall a question that Senator Packwood asked me when I
17 came up here to be confirmed. He asked me what an "unfair
18 trade practice" was. I was new to this business, and I stumbled
19 through it, and finally Senator Danforth came to my rescue and
20 said, "Well, it is like pornography; you know it when you see
21 it." Targeting falls into that kind of a category, it seems to
22 me. It is almost impossible to define, as it can be
23 combinations of things that nobody has thought of yet. It is
24 very hard to get your hands around what this practice actually
25 is, but you sort of know it when you see it.

1 Senator Moynihan. Where do you see it right now?

2 Mr. Woods. Well, we have felt that we have seen it in
3 the Japanese semiconductor industry, and in fact that is one
4 of the reasons why we went after the semiconductor industry
5 the way we did. In that instance it was a combination, we
6 believe, of the dumping of the product in combination with
7 the protection of the home market in Japan. So, we went after
8 both: product dumping and home market protection. We believe
9 we see that in supercomputers.

10 And I might add, in relation to something that was said
11 yesterday, we now have the Japanese prepared to negotiate on
12 that subject, which they weren't some days ago. That was one
13 of the --

14 Senator Moynihan. I am not trying to test you on this,
15 but could I just ask our committee here: There is something
16 well known, and one of the most distinct phenomena of the
17 twentieth century world trade, as the "product cycle." It has
18 been well established. And being the most technologically
19 advanced country for most of the century, we have had the most
20 experience with the product cycles.

21 In that cycle, as something gets thought up and
22 manufactured here, and it begins to be sold abroad, then it
23 begins to be manufactured abroad and sold abroad, then it
24 begins to be manufactured abroad and sold back here. I guess
25 an economic historian can go through 1000 examples, but the

1 automobile is the best. It was not necessarily entirely an
2 American invention, but the mass production was. And we were
3 so used to those automobiles being American that, when they
4 ceased to be American, it caused a lot of trouble in our
5 society.

6 But you mentioned three things -- semiconductors,
7 fiberoptics, and I will add another: superconductivity, the
8 most important piece for science since the jet. Now, these
9 are all American inventions or discoveries -- you can't
10 describe superconductivity as an invention; it is a discovery,
11 but it will have technological uses.

12 Fiberoptics was discovered, invented, and produced in
13 Corning, New York. They immediately set out to sell it
14 around the world, because it is one of the most extraordinary
15 bits of communicating devices that has ever yet been found. If
16 you had it in mind to do, you could send the King James Bible
17 600 miles in one and a half seconds, and there is no equal
18 in its capacity for transmission of information. And Corning
19 right away set out to sell it around the world.

20 They didn't get much into Japan -- they sold "a few yards"
21 as they say -- but around the world they were all going to use
22 it from Corning. Pretty soon, however, there will be a day
23 when Korea ships it back to us.

24 In the meantime -- superconductivity -- two months ago
25 at the American Physical Society of New York there was a

1 meeting on superconductivity in which papers were read, limited
2 to five minutes, excepting for a few very distinguished people
3 who were allowed to give their papers for 10 minutes. And
4 they went on from 9:00 in the morning until 3:00 the following
5 morning. I mean, American science on top of the most
6 extraordinary thing since the discovery that copper could
7 conduct electricity.

8 Now, we are going to learn how to make that; we are tops
9 in ceramics in the world; and we are going to be planning to
10 go all around the world and say, "We have got for you the
11 most extraordinarily efficient device for the transmission of
12 energy in the history of the race and the subject." Now, is
13 that targeting?

14 The Chairman. Senator, may I respond somewhat to that?

15 I think the example that you cited is a good one, on
16 ceramics and on fine glass. And what we have seen and have
17 been given notice of is that the Japanese have called
18 together industry members that deal in fine glass, and they
19 have called together the scientists, and government, and they
20 will issue "a vision" -- as they term it. And within a couple
21 of years during that time you will see the market close in
22 Japan, if they have decided that is an industry they want to
23 promote for export. They will close that market. They will
24 work at developing the marketing of that product in a
25 coordinated effort by government, the scientists, research and

1 industry. And you can bet that the primary target will be
2 the United States market, with its enormous consumption.

3 That is the kind of educated mercantilism that we are
4 seeing take place around the world.

5 Senator Moynihan. Yes.

6 The Chairman. That is targeting, and that is what we have
7 been subjected to.

8 Senator Baucus. Mr. Chairman?

9 The Chairman. Yes.

10 Senator Baucus. Mr. Chairman, I would like to follow on
11 a little bit with an observation about superconductivity.

12 I understand that the Japanese have already dedicated
13 \$300 million to the research and development of
14 superconductivity. There is a meeting in Tokyo coming up
15 where over a thousand different Japanese are coming together
16 to figure out how to divide that pie, \$300 million, so that
17 they can develop superconductivity.

18 Now, it seems to me that targeting is an illusive term and
19 difficult to define, but it seems to me it is a lot like due
20 process. That is an illusive term. You know, that is
21 difficult to define. It is a like a lot of concepts that we
22 run up against.

23 Frankly, I think in this case, the Japanese getting
24 together to dedicate a certain amount of funds and a certain
25 number of personnel, that may or may not be targeting depending

1 upon whether it is to just develop the material and the new
2 technology for their industry and for mankind, or whether it
3 is designed to perniciously adversely knock down Americans, or
4 to be against Americans, or to take advantage of Americans.
5 I frankly think that, just as we want due process provisions
6 written in our Constitution, it also makes sense for targeting
7 to be an actual unfair trade practice, and we are going to
8 define targeting as we move along, as to what is and what is
9 not targeting.

10 But I do think that the pernicious side of targeting
11 really has to premise the assumption of a trade war, where it
12 is "us" taking advantage of "you."

13 We want to raise not only the American standard of
14 living but raise, frankly, the Japanese and West European and
15 all people's standards of living. So, we don't want to turn
16 back the clock of technological development. If there is a
17 way for a country to organize to develop technology, that is
18 good for the world. But it is not good for the world if that
19 country which develops that new technology does it in a way
20 to somehow take advantage of or hurt or harm another country.

21 So, I just firmly believe that we do want to make
22 targeting an actionable provision under section 301, and we
23 are going to cross this bridge many, many times as to what is
24 and what is not targeting. We are going to round out this
25 definition as we proceed. But I think it is wrong for us to

1 say that it should not be actionable, because that then says
2 that everyone is out for himself in a way that I think is
3 going to create more subsidies, is going to create more
4 distortions of the marketplace.

5 The fact is, too, in my view, I don't worry about mirror
6 legislation. I don't worry about it because what we do in
7 this area is not going to be nearly as objectionable, in my
8 view, as what a lot of other countries are doing.

9 So, let us cross those bridges when we get to them; but
10 let us at least set the tone and start us off in the right
11 direction to be a leader in the world and say that targeting
12 should be actionable.

13 The Chairman. I think one of the points made, of course,
14 is how do you define it, how do you recognize it? Mr. Woods
15 says we recognize it when we finally see it. Well, because of
16 not being able to be that specific, we say "an unreasonable
17 trade practice" and we give discretion to the President, when
18 it is recognized, to take some action against it. We don't
19 mandate that; it is discretionary. We give him several outs
20 on that deal.

21 Senator Durenberger. Mr. Chairman?

22 The Chairman. Just a brief response. The S. 490 defines
23 export targeting as "any government plan or scheme
24 consisting of a combination of coordinated actions, whether
25 carried out severally or jointly, that are bestowed on a

1 specific group enterprise, industry, or group thereof the
2 effect of which is to assist the enterprise, industry or group
3 to become more competitive in the export of any class or kind
4 of merchandise."

5 Now, I don't know whether that helps anybody recognize
6 it when it comes along. It helps me feel more positive about
7 making trade policy, if we all agree that trade policy ought
8 to be market-opening, not market-closing.

9 My concern for putting this in here is twofold: Number
10 one, the Ambassador has already said "however targeting can
11 be recognized, it is already actionable." If we add export
12 targeting to section 305, we in effect are saying we are taking
13 another step forward to say we are against it, whatever it
14 may be.

15 I think the example of superconductivity is an important
16 example. I don't know that anybody here thinks we ought to
17 let the Japanese go ahead and take over the world of
18 superconductivity. But if we are going to arrest that in some
19 way, you don't do it by accusing them of export targeting
20 five years from now, you do it by setting a deliberate course
21 in America today to make American superconductivity
22 commercially viable and to make the export of that technology
23 competitive. And yet, if we chose to take that course, that
24 would be "export targeting," conceivably, by this definition,
25 and we would be in trouble.

1 The third reason is that we have a GATT process coming
2 up that has deliberately on its agenda this whole subject.
3 So, why prejudge it at this stage? Why not let that agenda
4 address this very important issue?

5 The Chairman. Well, let me say, thinking of that agenda
6 that we have before us, if we can summarize this -- I think
7 the two sides of the argument have been well developed, and I
8 hope we are prepared to vote, unless there are further
9 comments.

10 Senator Chafee. I would just say, Mr. Chairman, that the
11 gathering that Senator Moynihan referred to was a gathering
12 of private individuals; it wasn't a Government-sponsored
13 gathering. Our Government isn't hip-deep into the present
14 activities in the U.S. on superconductivity. Our Government
15 isn't keeping out other nations' superconductivity materials
16 or developments. And their government is involved in this.
17 That is a key difference from what takes place in this country
18 and what takes place in other nations. And a factor in this
19 is the closing of the markets.

20 I just would briefly say that I don't quite agree with
21 Ambassador Woods' statement that it is already actionable.
22 Other companies have examined proceeding that route and have
23 decided that that isn't a route that they could follow. In
24 the Hundai Case, which was machine tools, they went another
25 route, because they felt pursuing the targeting route was not

1 feasible under the existing law.

2 So, I feel this is an important provision. I am ready to
3 vote, Mr. Chairman.

4 The Chairman. All right.

5 Mr. Woods. Senator, excuse me.

6 The Chairman. Yes.

7 Mr. Woods. There is one issue, if I may, that I would
8 like to bring up in this context that we discussed the other
9 day. As I recall, some members of the committee had some
10 concern about it. That was the specific provisions related
11 to technology transfer, and the potential impact of that
12 transfer on our defense industries, and the fact that this
13 language might provide a barrier to our defense industries in
14 doing the things that they must do commercially to transfer
15 technology.

16 You will recall we discussed, I believe, General Dynamics
17 and the F-16; I think we discussed Boeing and AWACS and some
18 of the other defense companies, about the transfer of
19 technology as part of their own commercial transactions. I
20 believe that is C.

21 I don't know whether the Senators have looked at revising
22 that or not, but I do raise it because there seems there was
23 considerable concern about that the other day when we talked
24 about it during the walk-through.

25 The Chairman. Mr. Woods, we will get to that one later.

1 I would like now to deal with this particular issue.
2 I think we have addressed the concerns, frankly, in 490 of
3 Senator Durenberger by giving the President discretion to act,
4 and giving him several outs. I believe it is a responsible
5 approach to it.

6 But let us have a vote on it.

7 Please call the roll.

8 Senator Chafee. Mr. Chairman, this would be a vote on
9 the Durenberger amendment?

10 The Chairman. This is a vote on the Durenberger
11 amendment to strike the targeting provision of S. 490

12 The Clerk. Mr. Matsunaga?

13 (No response)

14 The Clerk. Mr. Moynihan?

15 (No response)

16 The Clerk. Mr. Baucus?

17 Senator Baucus. No.

18 The Clerk. Mr. Boren?

19 (No response)

20 The Clerk. Mr. Bradley?

21 (No response)

22 The Clerk. Mr. Mitchell?

23 (No response)

24 The Clerk. Mr. Pryor?

25 Senator Pryor. No.

1 The Clerk. Mr. Riegle?
2 Senator Riegle. No.
3 The Clerk. Mr. Rockefeller?
4 (No response)
5 The Clerk. Mr. Daschle?
6 The Chairman. No, by proxy.
7 The Clerk. Mr. Packwood?
8 Senator Packwood. No.
9 The Clerk. Mr. Dole?
10 (No response)
11 The Clerk. Mr. Roth?
12 (No response)
13 The Clerk. Mr. Danforth?
14 Senator Danforth. No.
15 The Clerk. Mr. Chafee?
16 Senator Chafee. No.
17 The Clerk. Mr. Heinz?
18 Senator Heinz. No.
19 The Clerk. Mr. Wallop?
20 (No response)
21 The Clerk. Mr. Durenberger?
22 Senator Durenberger. Aye.
23 The Clerk. Mr. Armstrong?
24 (No response)
25 The Clerk. Mr. Chairman?

1 The Chairman. No.

2 The Clerk. One Yay, nine nays.

3 The Chairman. Senator Durenberger, you have until 5:30
4 to talk to the rest of the members.

5 (Laughter)

6 Senator Durenberger. Thank you, Mr. Chairman.

7 The Chairman. Senator Baucus?

8 Senator Baucus. Mr. Chairman, are you open for further
9 amendments?

10 The Chairman. Yes.

11 Senator Baucus. Mr. Chairman, I have an amendment that
12 I would like the Clerk to distribute, please.

13 Essentially, this is an amendment to coordinate the
14 right hand and the left hand with the USDA and the USTR in
15 deciding what benefits to grant U.S. exporters under the EEP,
16 the Export Enhancement Program, administered by the USDA; and
17 on the other hand, section 301 actions that this country might
18 bring against unfair agricultural foreign trade practice.

19 Today, as we all know, we have massive surpluses of grain.
20 In fact, the American stockpiled surplus is so expensive that
21 we are paying more today in storage costs alone than we were
22 on the entire farm subsidy program in 1980. We have about
23 a billion bushels of wheat, enough to feed 27 loaves of bread
24 to every man, woman, and child on the face of the earth --
25 American stockpiles are so large.

1 Today, under the law, the USDA then grants EEP benefits
2 to U.S. exporters to combat the subsidies a lot of other
3 countries give, the total subsidies paid for wheat. The
4 EC gives about \$100 per metric ton -- it is that great -- much
5 larger than ours. And that is one reason we are losing a lot
6 of sales. In fact, the EEC will surpass the United States as
7 the world's largest exporter of agricultural products. That
8 is in large part due to EEC subsidies.

9 Now, the problem today is that the USDA, to a large
10 degree, really doesn't know which countries to bring to the
11 matter. With these EEP benefits, it is a little difficult
12 to know what is an unfair agricultural foreign trade practice
13 and what isn't.

14 So, my amendment would very simply direct the USTR,
15 whenever 301 is brought against a country, claiming that there
16 is an unfair agricultural subsidy, in this case, to within 30
17 days consult with the USDA to see whether or not this is an
18 appropriate instance for the USDA to grant EEP benefits. If
19 after that 30 days the USTR thinks that, Yes, this is an
20 appropriate case, then he will so advise the President, and
21 the President then must either grant those benefits or, if
22 not, if he decides it is in the country's best interests not
23 to grant those benefits, then he will so report back to the
24 Congress.

25 It is essentially a way to bring these two programs

1 together. Right now they are off separately, sometimes in
2 the same direction and sometimes in different directions.

3 It is my thought that there are a lot of benefits here.
4 One is that we have all this wheat in storage. It is rotten,
5 just sitting there. And this is also part other commodities,
6 not just wheat, but other commodities in surplus. The storage
7 costs are expensive; it is an ongoing program. It is just a
8 way to basically make our administration of the laws a little
9 more efficient than they now are.

10 That is the amendment.

11 The Chairman. But it in no way mandates?

12 Senator Baucus. It in no way mandates, no. The USTR
13 will consult with the USDA to see if this is an appropriate
14 case. And if the USTR feels, after that 30 days, that, "Yes,
15 this is an appropriate case," and so informs the President,
16 the President then at his discretion will either grant the
17 EEP benefits or, if not, so inform the Congress, including
18 the reasons why.

19 The Chairman. Mr. Woods, do you have a comment? Or
20 Mr. Holmer?

21 Mr. Woods. This appears to me to be in the category of
22 another arrow in our quiver, now that Senator Baucus has made
23 the changes to not mandate that we use the EEP benefits.

24 The Chairman. Yes. I had some concern with it in the
25 beginning. But this makes it acceptable.

1 Mr. Woods. And in that respect, we are always pleased to
2 have arrows in our quiver.

3 Senator Chafee. You are going to have a lot of them
4 before this bill is finished.

5 (Laughter)

6 The Chairman. Mr. Lang, do you have any comments
7 concerning it?

8 Mr. Lang. We worked on this in the staff group, and
9 Ambassador Woods is correct: Senator Baucus modified the
10 amendment in response to comments of several offices. I don't
11 know of any objection to it at this stage.

12 The Chairman. Do you move the amendment, Senator Baucus?

13 Senator Baucus. Yes, I do.

14 The Chairman. All right.

15 I must say I was distracted when I saw the Chairman of
16 the Budget Committee come in.

17 (Laughter)

18 The Chairman. You have not brought us Reconciliation, I
19 hope, at this moment.

20 (Laughter)

21 The Chairman. All right.

22 Are there objections to the amendment?

23 (No response)

24 The Chairman. If not, all in favor of the amendment make
25 it known by saying Aye.

1 (Chorus of Ayes)

2 The Chairman. Opposed, similar sign.

3 (No response)

4 The Chairman. Motion carried.

5 Senator Riegle. Mr. Chairman?

6 The Chairman. Yes, Senator Riegle.

7 Senator Riegle. Is there another amendment waiting to go
8 at this point? Or would this be a good time to get into the
9 workers' rights amendment?

10 The Chairman. I think as good as any. Go ahead.

11 Senator Chafee. Mr. Chairman, could we just clear up
12 that point that Mr. Woods had on the technology transfer?

13 Mr. Lang. Mr. Chairman, if you will look on spreadsheet
14 page 63 in the right-hand column, the provision that gives the
15 Administration concern is item C at the bottom of page 63.
16 These are ideas that would be included but not necessarily be
17 the only ways in which export targeting could manifest itself.
18 So, "C" is what the Administration has reservations about,
19 Senator.

20 Senator Chafee. Mr. Chairman, I have a proposal. If
21 the Administration could work around with that and come up with
22 some changes that would relieve them of their concerns, I
23 for one would be glad to discuss it with them, and we could
24 go on to something else -- if that is agreeable with you.

25 The Chairman. Well, you are saying that you will

1 discuss it later with them, and we will move on to something
2 else at the present time?

3 Senator Chafee. That was my thought, that they would
4 come up with the language that eases their concerns, and we
5 could take that up later.

6 The Chairman. We would be happy to consider it later,
7 certainly.

8 Senator Riegle?

9 Senator Riegle. Thank you, Mr. Chairman. I agree with
10 you, when the Chairman of the Budget Committee comes in, it
11 sends a chill through all of us at this particular point.

12 (Laughter)

13 Senator Riegle. Mr. Chairman, I want to circulate now the
14 amendment that I am offering, for myself and together with
15 Senator Heinz, on issue of workers' rights. And I want to
16 make sure that a copy is in front of everybody of the
17 amendment that we will be offering.

18 This amendment is offered fully in a bipartisan manner.
19 I would note at the outset that this provision that we are
20 offering today was contained in the House version that was
21 put forward by Representative Bob Michel as the Republican
22 alternative in the House. So, this is an issue that has been
23 much looked at and discussed by people in both parties and I
24 think is something that clearly we should incorporate into
25 our bill.

1 What the amendment would do is, it would make workers'
2 rights around the world a negotiating objective in the new
3 GATT Round. It defines as "unreasonable" under section 301
4 the denial of internationally-recognized workers' rights, and
5 it provides maximum flexibility, in that the Trade
6 Representative may determine that, if a country is taking
7 steps to demonstrate compliance with the objectives, then no
8 action would be recommended or required.

9 Now, the law as we have it today already recognizes that
10 when a country subsidizes capital, or dumps its production,
11 we have an example of an unfair trade practice. This
12 amendment extends that concept in principle to human capital.

13 The fundamental question that we are asking is: Should
14 the exploitation of workers for the purpose of gaining unfair
15 market advantage be recognized as an "unreasonable trade
16 practice"?

17 Now, this is not a new issue; this is an issue that has
18 been around for many years, and many of the nations that today
19 are carrying out some of the worst kinds of oppressive
20 practices that one can describe have signed international
21 agreements saying that they will not do that, that they will
22 adhere to a different set of standards. They are signatories,
23 for example, to the Convention on Forced Labor, which
24 originated in 1930, has 128 ratifications, including many of
25 the countries today that, of course, are not meeting that

1 standard that they themselves agreed to do.

2 The Convention on Freedom of Association and the Right
3 to Organize has 97 ratifications. The Convention on the
4 Right to Organize and Bargain Collectively, which originated
5 in 1949, has 113 ratifications. Again, without going into
6 greater detail, unless there is a desire to do so, there are
7 a number of nations on those lists that today blatantly
8 violate those very conventions.

9 Now, from both a moral and an economic point of view, I
10 think we should not be forced to compete with labor costing
11 50 cents an hour or less, the children in textile factories
12 around the world working 15 hours a day, or heavy industries
13 all across the globe which do not have any safety or health
14 standards.

15 As Mr. Frank Fenton of the Trade Reform Action Coalition
16 testified before this committee, "It is preposterous to think
17 that any U.S. industry will ever be able to compete against
18 15-cent-an-hour labor, regardless of how lean and mean it
19 gets and how technologically advanced its equipment is.

20 So, the intention of this amendment -- which, by the
21 way, does not require a mandatory action, but it would be
22 actionable -- is to expand world trade by providing for better
23 conditions for workers all over the world. These countries
24 that are practicing these things that we hope to try to see
25 eliminated would not have to be so dependent on exports

1 themselves, and they would be in a position, in fact, to buy
2 more of the world's goods in the process, which would be very
3 helpful to our ability to do a greater level of exporting,
4 ourselves.

5 The worker rights defined in this amendment are the
6 same as those defined in statutes governing the generalized
7 system of preferences and the overseas private investment
8 corporation. Hearings have been held on both of these, and
9 the provisions in those areas are being enforced.

10 I would just conclude by saying that we have broad support
11 for this amendment. The Retail Action Trade Coalition, which
12 has been a group very strongly on the side of free and open
13 trade, which is a coalition of retailers and trade
14 associations, endorses this language specifically. It is
15 obviously a major issue with organized labor in this country
16 and the ILO around the world to try to adhere to some measure
17 of minimum standards of decency in terms of workers' rights.

18 I have a whole list of horror stories that I won't get
19 into unless we have to, ranging from countries like Korea and
20 Thailand, and many others, where we see -- in '80 -- some of
21 the worst conditions that one could imagine, where children
22 are sold into labor situations, and where working conditions
23 are almost beyond one's imagination, unless you actually
24 examine what is going on.

25 So, I would hope that this would be an amendment that the

1 committee would see fit to support. There are other groups --
2 the Catholic Bishops have spoken out very strongly on this
3 issue. And finally, the European Parliament, just as recently
4 as in September of this last year, reaffirmed its 1983
5 resolution for a new GATT Article to be negotiated to cover
6 fair labor standards, and specifically require member
7 companies of countries of the GATT to respect the ILO
8 Conventions.

9 So I think there is a very strong case here. I think
10 there is a very strong consensus around the world by people
11 who have thought about this issue, who are central within the
12 trading system, to see to it that we move in this fashion,
13 not to try to butt into anybody else's internal affairs -- we
14 don't require standards in other countries -- but to create a
15 situation where living and working conditions around the world
16 can rise, and that we will not find increasing numbers of
17 U.S. workers displaced by products that are cheaper because
18 they are literally extracted from the blood and exploitation
19 of people in other countries who are denied even the most
20 basic rights to try to organize and bargain for themselves in
21 their work situations.

22 Senator Heinz. Would the Senator yield?

23 Senator Reigle. I will in just a moment. I just wanted
24 to say I am very pleased to be joined by Senator Heinz, and I
25 know he has a statement that he wishes to make.

1 Senator Moynihan. Can we not let Senator Daschle ask
2 a question, then go to you, sir?

3 Senator Daschle. Well, it was more in the form of a
4 statement. For that purpose, I will be happy to defer to
5 Senator Heinz.

6 Senator Moynihan. Senator Heinz?

7 Senator Heinz. First, let me say that Don Riegle has
8 done a very eloquent and elegant job of arguing and
9 stipulating the case for this amendment. He has carefully
10 researched the President's laws, the conventions, and he
11 has set those forth I think both accurately and rather
12 powerfully.

13 This is indeed a very carefully-crafted amendment, and
14 there will be people who will attack it as disguised
15 protectionism. It is not either protectionism or disguised
16 protectionism, inasmuch as the kinds of standards that are
17 set forth are today internationally recognized, they are
18 subscribed to by many, and the amendment has two aspects to
19 it that I specifically want to draw the attention of our
20 colleagues to.

21 The first is that these kinds of denials of worker rights
22 are designated, when discovered, as an "unreasonable" trade
23 practice; that is to say that action is discretionary with
24 the President; it is not in the category of an "unjustifiable"
25 trade practice. Thereby, I suspect that that gives

1 Mr. Holmer an arrow in his quiver, even if he doesn't
2 particularly relish the idea of firing it at a target.

3 Second, the amendment specifically says that you don't
4 even have to find it an unreasonable practice, even if there
5 is not on some absolute scale a sufficiency of these rights,
6 as long as there is some progress taking place.

7 And it seems to me fairly difficult to take the position
8 as Americans that we are not for the promotion of these kinds
9 of very basic rights. We are talking about child labor being
10 restrained, restricted, proscribed. We are talking about the
11 ability of employees to have some say over how they are
12 treated and how they are compensated. These are not exactly
13 "unreasonable" positions of advocacy for this country to take.

14 I hope the committee will be convinced that this is not
15 only a non-protectionist amendment, but it is a good and
16 necessary amendment.

17 Senator Moynihan. I wonder if I might make a quick
18 response in that regard, to say that, far from being a
19 protectionist amendment, the international labor conventions
20 begin as a device for increasing world trade, by enabling
21 nations to be certain that there are essentially equal labor
22 standards as between them, and there is no need to raise
23 tariff barriers to overcome the advantage in price that comes
24 from lower labor standards. It was precisely to the question
25 of increasing trade that the idea of the labor convention first

1 began.

2 Senator Daschle?

3 Senator Daschle. Thank you, Senator.

4 The point I was going to make is that a comment I have
5 heard on a couple of occasions is that this is somehow foreign
6 to many of the objectives that we are trying to accomplish in
7 this bill. The point I would make is that it is just the
8 contrary, that this is very much in line -- in concept and in
9 philosophy -- with the Tariffs and Trade Act of 1984, which
10 mandated that the President not designate as a GSP beneficiary
11 any country that has not taken or is not taking steps to
12 afford internationally-recognized worker rights to workers in
13 that country.

14 So, we have ample precedent in current law, not to mention
15 the fact that as an objective of S. 490 we set out "the
16 establishment of minimum standards applicable to the workplace
17 to provide greater international discipline over abuses of
18 the human rights of workers."

19 So, it is totally, in concept and in philosophy, in line
20 with current policy as well as with the intention of S. 490.
21 I think it elaborates and more concretely defines our intent
22 in this regard. So, I think it is an admirable amendment.

23 I emphasize what Senator Heinz has indicated, that this
24 is a discretionary matter for the President and the USTR; and,
25 in that regard, I think it fits practically as well as

1 philosophically with our intent in this bill.

2 Senator Moynihan. Senator Chafee?

3 Senator Chafee. Mr. Chairman, I think it is very
4 important that we realize that this is a very, very major
5 amendment that Senator Riegle is presenting. This isn't just
6 something that deals with employing children at slave wages;
7 this is an amendment that says, "If a country denies the right
8 of association" -- namely, unions -- "or denies the right to
9 organize and bargain collectively" -- i.e., unions -- that
10 an action lies.

11 Now, what we are saying is that, a fortiori, an action
12 lies against all the Communist bloc countries, including,
13 of course, the Soviet Union and China, and it lies against
14 other countries such as Korea.

15 Now, to say that the President has discretion I don't
16 think addresses the problem. What we are saying here is that
17 we are not going to purchase goods from the Soviet Union or
18 from China unless an exception is made. And therefore it is
19 clear that those countries aren't going to change their ways
20 because of a 301 action by the United States. It means,
21 therefore, in effect, that they are going to retaliate --
22 there is no question about it. Why should China buy any goods
23 from us if we are not going to buy any goods from them? Why
24 should the Soviet Union buy any of our wheat or agricultural
25 products, as they have done in the past? They have been the

1 principal purchaser of agricultural products from the United
2 States in many years, and there is no doubt that they will be
3 again in the future.

4 I noted the concern that Senator Baucus indicated
5 regarding exports of agricultural products, and that is one
6 I share. I think we would be making a grievous mistake to
7 cut off those markets from ourselves.

8 I have here a letter from the Secretary of Labor,
9 Secretary William Brock whom we all know and respect, in which
10 he says the Administration opposed the provision passed by the
11 House Ways and Means Committee -- that is the so-called
12 "Workers Rights" -- "and I urge you not to accept the
13 provision in the Finance Committee." And there is a copy here
14 addressed to Mr. Rostenkowski in which -- I will just quote
15 this -- "And therefore a good case in point is the members of
16 the Soviet Bloc. They are the world's worst offenders of
17 workers' rights, and they are not going to change their labor
18 practices due to a section 301 case. Therefore, in a
19 complaint involving the Soviet Bloc we would have two options:
20 one, retaliate against Soviet imports; or, two, do nothing.
21 If we retaliate, they will undoubtedly take counteractions
22 against U.S. exports. If we do nothing, how can we justify
23 applying this provision to any other country?"

24 Mr. Chairman, there are ways of proceeding on this, and
25 I think we ought to look into it further, and at the proper

1 time I will propose that there be appointed a study commission
2 to look into this and see what we are getting into.

3 But to start here, without knowledge of what we are
4 getting into, seems to me to be a very, very grievous
5 undertaking. And I would hope, at the proper time, when I
6 present the study amendment, that that amendment would be
7 adopted, and that we would not adopt the Riegle amendment.

8 The Chairman. Senator Packwood?

9 Senator Packwood. Mr. Chairman, I have some sympathy for
10 the Riegle amendment, but I don't know if I can vote for it.
11 Maybe I can, but I want to ask some questions.

12 How do you envision, Don, that it works? You are saying
13 it is discretionary. Senator Chafee is saying, "Well, we
14 are going to have to apply it to the Soviet Union, and that
15 it isn't discretionary, and then we won't buy anything and
16 they won't buy anything."

17 Senator Riegle. I would say to the Senator, as
18 Senator Heinz earlier pointed out, this does not mandate an
19 action; it allows our trade people and the President to look
20 at the conditions that are going on in that area and make a
21 judgment as to whether or not the situation is so extreme,
22 so severe, that it ought to be included with whatever other
23 direct economic factors are involved in deciding to bring
24 an action.

25 Senator Packwood. Wait a minute. But is it discretionary?

1 If you look at Russia, then clearly you are right -- no
2 right of association, no right to bargain. Now, can the
3 President say, "Yep, they don't allow association, and they
4 don't allow bargaining; I am going to waive it anyway"? Is
5 that what you mean by "discretion"?

6 Senator Riegle. I would say, first of all, I think the
7 issue as it relates to Communist nations is, if I may say,
8 something of a red herring. I think it is easy to raise those
9 cases. I should think that the weight of argument really ought
10 to be tilted the other way; and that is, if we can do something
11 constructive that tries to break open those systems, in the
12 sense of giving workers somewhat more leverage and try to
13 move those systems, to some extent, in the direction of the
14 way our system works, that we would be encouraging that and
15 not, in a sense, saying that we are going to by and large
16 accept their practices and say we can't do anything about it.

17 Senator Packwood. Don, let me interrupt and use a
18 different example. The reason I am ambivalent about this is,
19 there is probably no stronger bulwark of anti-dictatorship
20 than free unions. Someone gave me the argument about minimum
21 wage or minimum age. But they are simply anathema to
22 dictatorships, whether they are Russia or Chile or Korea or
23 anybody else.

24 But I don't understand the waiver process. Let us skip
25 the Communist bloc countries; let us take Korea. They have no

1 freedom of association as we mean it, or as you mean it, I
2 think. What powers does the President have to do, the way?
3 That is what I don't understand in your amendment

4 Senator Riegle. I think Korea -- South Korea -- is a
5 terrific example. It is probably the best example, because
6 they are running enormous trade surpluses, and they are one
7 of the more repressive countries in the world today and
8 particularly with respect to workers' rights. And I have a
9 a number of specific cases in Korea that, if there is a
10 desire to get into them, I will, in terms of workers being
11 beaten, women being tortured, in terms of trying to have
12 meetings to talk together about how they might increase wages,
13 and so forth. So, Korea is a very good example.

14 The way I would see this working is that the President
15 and his representatives in the trade area would examine what
16 is going on in this area, that this would be an area that
17 would receive very careful analysis. And if a pattern were
18 found of practices along the lines of these lists of abuses,
19 that were in turn converting themselves into a non-fair
20 economic advantage in the trading relationship, that the
21 President would be in a position to take that matter into
22 account with others to decide and make a judgment as to whether
23 or not the situation was serious enough and profound enough
24 to require an action on their part.

25 Now, I would think in most instances that negotiation

1 would follow, that efforts would follow between governments
2 that have a positive relationship to try to work things out.
3 But in the event that there was a determination that the
4 situation was so extreme, there was no movement, it would give
5 the President the option to bring an action if he so chose.

6 Senator Packwood. Is this like the non-trade violations
7 on mandatory retaliation, where at the end of it the President
8 doesn't have to retaliate? That is what I am trying to ask.

9 Senator Riegle. Yes.

10 Senator Packwood. Okay.

11 The Chairman. Mr. Holmer?

12 Mr. Holmer. Senator Packwood, if we could, just on that
13 one particular point, because Ambassador Woods wants to
14 address it more broadly, the mandatory retaliation under
15 S. 490 as amended by the Packwood amendment includes mandatory
16 retaliation for unreasonable cases. It is true that there are
17 some exceptions -- you do have a national-economic-interest
18 waiver for the President. But there is mandatory retaliation
19 required for unreasonable cases under which this worker
20 rights provision would fall.

21 The Chairman. Senator Bradley, you had a comment.

22 Senator Bradley. I'm sorry, I just came in.

23 Yesterday I thought it was a mandatory investigation,
24 not mandatory retaliation.

25 Senator Packwood. As far as "unreasonable" practices,

1 as opposed to what we called "unjustifiable" -- non-trade
2 agreements.

3 Senator Bradley. That is not what the spreadsheet says.

4 Senator Heinz. Maybe we should ask Mr. Lang, on this.

5 The Chairman. The spreadsheet doesn't have that
6 amendment.

7 Mr. Lang. What would happen, in unreasonable cases under
8 the Packwood amendment that was accepted yesterday, is that
9 the President would have to initiate cases, both unjustifiable
10 and unreasonable and discriminatory.

11 Senator Packwood. Initiate investigations.

12 Mr. Lang. Initiate investigations, based on those that
13 would work the greatest expansion of U.S. exports or a
14 precedent that would have that effect.

15 The President would then be required to retaliate, but
16 the list of exceptions in unreasonable and discriminatory
17 cases is longer by one exception than in any of the other
18 cases, and that is the exception Senator Packwood described --
19 that is, at the end of the process the President can simply
20 declare that he does not believe it is appropriate for the
21 United States to retaliate.

22 The Chairman. That is limited to the unreasonable cases.

23 Mr. Lang. The unreasonable and discriminatory cases.

24 The Chairman. Oh. But as to the unjustifiable, the
25 trade, he has to. But I am trying to figure where this fits

1 in now as to what Don is saying and as to what Mr. Holmer
2 is saying.

3 Mr. Lang. I think, Senator Packwood, what may be causing
4 some confusion here is that, under current law, the word "may"
5 appears with regard to the actions the President can take.
6 Under both the Packwood amendment and the Bentsen/Danforth
7 bill, the word "shall" refers to the action the President
8 takes; but, nonetheless, your interpretation is correct, in
9 our opinion, that the exception for doing nothing at the end
10 of the course is available to the President in the unreasonable
11 and discriminatory cases.

12 Senator Packwood. But where does Mr. Riegle's amendment
13 fall? The President goes through the process, says, "This
14 country" -- Borneo, or whatever, but I don't know if Borneo
15 fits these standards or not -- "does not allow worker rights,
16 does not allow collective bargaining," and only by an
17 absolute breach of fact-finding investigation can he come to
18 a conclusion that they fit into these, so he says, "They don't
19 fit," they don't do this. Then what does he do? At that stage
20 can he say, "We are going to waive it"? Or under Mr. Riegle's
21 amendment at that stage does he have to have some kind of
22 mandatory retaliation?

23 Mr. Lang. Senator Riegle's amendment, as we read it,
24 explicitly provides that it is in the unreasonable category;
25 it is an amendment to the definition of "unreasonable."

1 Furthermore, he has an additional loophole for the
2 President, which is a special rule for determinations
3 involving worker rights, and that is that the Trade
4 Representative can determine that the practice is not
5 unreasonable if the foreign country has taken or is taking
6 steps that demonstrate a significant and measurable overall
7 advancement to afford throughout the country the rights and
8 other standards described in the amendment.

9 So, there is actually an additional escape clause for the
10 President under Senator Riegle's amendment.

11 Mr. Holmer. But Senator Packwood, I just want to make
12 sure there is no confusion that, for these unreasonable
13 cases, the President is required mandatorily to retaliate
14 unless he takes one of the exceptions that is given to him.
15 And as a practical matter, you can be assured that the U.S.
16 Trade Representative or the Administration will be strung up
17 by their thumbs as a political matter to require that they
18 provide that they do take mandatory retaliatory actions as
19 mandated under the law unless the President exercises one
20 of those waivers.

21 Senator Packwood. There was confusion about the
22 amendment yesterday, because I copied a part of the Chairman's
23 amendment on this, redefining the language a bit. But under
24 "unreasonable" -- Lloyd, you correct me if I am wrong --
25 neither of us mandated retaliation at the end of an

1 "unreasonable violation."

2 The Chairman. That is correct.

3 Senator Packwood. For an "unjustifiable" one, we did.

4 The Chairman. That is right.

5 Senator Packwood. And I just don't know which category
6 this falls into.

7 Senator Riegle. It is precisely the same category; it
8 is in the "unreasonable" category. Action is not mandatory.
9 It requires a decision by the President. There are bases
10 upon which the President can hang his hat in deciding not to
11 act. I would maybe try to phrase it slightly more elegantly
12 than to call it a "loophole," or a "Presidential loophole" --

13 Mr. Lang. I beg your pardon, sir.

14 Senator Riegle. But the fact is that the President not
15 only has the latitude to evaluate those practices as against
16 the economic conditions in those countries and the state of
17 development in those countries, but also he has an economic
18 national self-interest argument from the point of view of
19 the United States that can also be applied.

20 But clearly, there is no ambiguity. It falls into the
21 category, Senator Packwood, of the "unreasonable" side of the
22 ledger where actions are not mandatory and the President does
23 have the option not to act on the basis that I have described
24 here.

25 The Chairman. Well, that was certainly the intent of the

1 language in the Bentsen/Danforth bill, and as amended by
2 Senator Packwood. There was no question about that.

3 Senator Baucus. Mr. Chairman?

4 The Chairman. Senator Baucus.

5 Senator Baucus. Now I am confused, frankly. I thought
6 I understood Jeff Lang to say -- and I think you have corrected
7 maybe Jeff's understanding, or perhaps my misunderstanding.
8 I thought I heard Jeff say that actions that are unjustifiable,
9 and in actions that are unreasonable, that the USTR is
10 mandated to begin initiation, and mandated to take
11 retaliatory action --

12 Mr. Lang. No. No.

13 Senator Baucus. -- except, if unreasonable, there is an
14 additional waiver that is not available in the unjustifiable
15 case.

16 Mr. Lang. I see. There is that semantic difference,
17 but the committee has been using the word "mandatory" to mean
18 the cases in which the President does not have the option to
19 do nothing at the end of the process. "Non-mandatory" has
20 meant that the President has the option to do nothing at
21 the end of the process. That is what the Chairman means.

22 Senator Baucus. All right. Just so I understand it:
23 under "unjustifiable cases" the USTR is mandated to both
24 initiate the investigation and take the action, retaliatory
25 action.

1 Mr. Lang. In fact, there is no distinction between any
2 of these cases with regard to initiation. He is simply
3 mandated to initiate cases.

4 Senator Baucus. He is mandated.

5 Now, in unjustifiable cases, what are the obligations of
6 the USTR?

7 Senator Packwood. He is mandated to retaliate, but we
8 have four exceptions.

9 Senator Baucus. All right. The exceptions only apply,
10 then, to the unjustifiable cases?

11 Mr. Lang. One technical correction: It is not the USTR,
12 it is the President.

13 Senator Baucus. Well, the exceptions then apply only
14 under "unreasonable"?

15 Senator Packwood. That is correct.

16 Senator Baucus. All right.

17 The question I have, Mr. Chairman, is: Does the action
18 that might be contemplated under the amendment offered by the
19 Senator from Michigan necessarily fall into the category of
20 "unreasonable"? Or might it also fall into the category of
21 "unjustifiable"?

22 Mr. Lang. His amendment provides, in its terms as we
23 understand it, that it is "unreasonable." And it also provides
24 some additional flexibility that would not be available for
25 other unreasonable cases.

1 Senator Baucus. I understand the additional flexibility,
2 but as the amendment is drafted, it could not be in the
3 category of "unjustifiable" -- is that correct?

4 Mr. Lang. That is right, because it is a definition of
5 the word "unreasonable."

6 Senator Baucus. Thank you.

7 The Chairman. Senator Moynihan, you had a comment?

8 Senator Moynihan. Yes.

9 Mr. Chairman, let me see if I can't sort my own thinking
10 on this just a little bit, first of all to say I support the
11 Riegle amendment, and I cannot think -- perhaps I could get
12 the attention of my friends?

13 Having raised the matter in this committee, I don't see
14 that we have any choice but to approve it. I think there is a
15 matter of history here that is of importance.

16 As I remarked to Senator Heinz earlier and very briefly,
17 when he was saying this is not a protectionist measure, indeed
18 the whole notion of the Labor Convention commences as an
19 effort to expand trade in situations where countries --
20 European countries -- were erecting trade barriers to
21 protect themselves against the lagging labor standards of
22 their trading partners.

23 The notion was very simply, if we all get together and
24 agree on a 40-hour week, if we all get together and agree on
25 certain provisions of worker safety, and so forth, then we

1 we will never find ourselves competing by the process of
2 lowering labor standards.

3 The earlier example, and perhaps the first, was the
4 Plimsoll mark that you see on shipping, that they would not
5 compete for shipping, maritime nations wouldn't compete for
6 trade by maintaining unsafe vehicles. And you still see
7 that Plimsoll mark alongside.

8 Now, it happens that the United States labor movement
9 took a lead in this. We first adopted law -- we adopted the
10 statute in 1907 on sulphur matches. Children used to suck
11 off the edges of matches and die from them, and there was a
12 treaty agreed to in Europe that nobody would make them. We
13 wouldn't sign the treaty, but we passed the law. They were
14 cheaper, but they were dangerous.

15 Then, at the Paris Peace Conference, Samuel Gompers, the
16 head of the AF of L, was made Chairman of the Commission that
17 drew up the charter of the International Labor Organization,
18 and the first meeting took place here in Washington.

19 The United States joined the ILO, when it did not join
20 the League, and it did not join the World Court. I think we
21 have ratified five treaties, none on labor conventions, all
22 having to do with maritime rights.

23 Now, having said that, it seems to me that for us not to
24 commit ourselves to these most elemental of the ILO
25 conventions is to repudiate part of our history. But, also be

1 clear that what Secretary Brock has said is probably also so,
2 that the President will find himself certifying that there
3 are no trade unions in Saudi Arabia, and there is nothing he
4 can do about it, and we have to trade with them; and that there
5 are no trade unions in Korea that are worthy of the name, and
6 yet we have to trade with them; that there are none in the
7 Soviet Union is obvious; and that in a whole number of
8 indeterminate states it is not so much a matter of doctrine
9 as it is a matter of power, there are no trade unions.

10 There are about 40 countries in the world which have
11 free trade union movements, and about 110 that don't. And
12 we trade with those other 110, and some we trade a great deal
13 with. And the President will end up having to certify that
14 they don't have these things which we claim to be very
15 important, and yet our economic interest overrides our
16 ideological interests. Yet, I would make the one compensating
17 thought, that the original purpose of these movements was not
18 purely in a human rights area but was in fact very much an
19 effort to advance trade. So, if they are not perfectly
20 adhered to, they are not walking away from our commitment to
21 the human rights aspects.

22 The Chairman. Thank you, Senator Moynihan.

23 Senator Danforth?

24 Senator Danforth. Mr. Chairman, I have several questions.

25 I think Senator Chafee was asking for recognition, maybe before

1 I was.

2 The Chairman. Senator Chafee?

3 Senator Chafee. I would like to ask Mr. Woods: Is it
4 essential that the unfair worker rights result in any impact
5 in trade under the Riegle amendment?

6 Mr. Woods. Yes, I believe that is right.

7 Senator Packwood. I didn't understand the answer.

8 Mr. Woods. Yes. There would have to be a burden or
9 restriction on U.S. trade, but --

10 Senator Chafee. I would be interested, Mr. Woods, in
11 your views on this.

12 Mr. Woods. Well, first of all, this Administration
13 strongly supports worker rights. We have worked very hard
14 to get worker rights to be a portion of the negotiation in the
15 Uruguay Round.

16 Ambassador Yeutter, as some of you may know, was
17 accompanied by representatives of the AFL-CIO to Punta del
18 Este for the purpose of trying to get worker rights on the
19 Uruguay Round agenda. We are still trying, and we plan to
20 continue to try in that respect.

21 The problem here is that there is no international
22 consensus at this point that denial of worker rights is a
23 legitimate basis for trade sanctions. That is what we would
24 be trying to achieve in the Uruguay Round. So, we would be
25 acting alone and unilaterally in declaring that such was the

1 the case.

2 In fact, there is really not much in the way of
3 international consensus as to what constitutes an unfair
4 worker rights practice in a trade context. And even the ILO
5 standards, as Secretary Brock states in his letter to you,
6 tend to be very general in nature, leaving wide latitude for
7 interpretation.

8 Our concern here is that we might be required to close
9 down markets, given the nature of this provision. We could
10 accept Senator Riegle's suggestion that we be required, as
11 part of our negotiating authority in the Uruguay Round, to
12 negotiate on this. That is what we want to do, and we would
13 very much appreciate the Senate's support for that activity.
14 But we must oppose, I believe, the use of section 301 as a
15 provision in international worker rights at this time.

16 The Chairman. Gentlemen, are we prepared to vote?

17 Senator Chafee. Mr. Chairman, I have an amendment to
18 Senator Riegle, and an amendment that I would like to
19 circulate now.

20 The Chairman. All right.

21 Senator Chafee. What this does is, it establishes a
22 workers rights blue ribbon commission, in which, "90 days
23 after the enactment of the trade bill, the Secretary of Labor
24 shall establish a commission to examine the effect of this
25 type of provision, and the commission will report back within

1 a year."

2 Mr. Chairman, I move this amendment, because I just think
3 we are getting into heavy weather here in the Riegle proposal.
4 And I must say I do find it a little bit objectionable, the
5 proposal or suggestion, if I understood it correctly, by
6 Senator Moynihan that we will have these provisions but rather
7 ignore them -- "Korea doesn't have a union set up, so therefore
8 the President just will declare an exception; that Saudi
9 Arabia doesn't have unions, we recognize that, so just declare
10 it an exception."

11 I don't think we want to enact laws with the objective
12 that the President will just merrily have exceptions to them.
13 I don't think that is what we want to do.

14 Senator Moynihan. Could I ask my friend, are you
15 objecting to what I said because I said it, or are you objecting
16 to the prediction I made?

17 Senator Chafee. Well, it wasn't more of in a prediction,
18 it was rather a suggestion, as I understood it.

19 Senator Moynihan. On a point of personal privilege, it
20 was no such thing at all. I said I think we should
21 realistically accept that in doing this we were in keeping with
22 a long American tradition, and that, in keeping with present
23 realities, the President would find himself -- a President
24 would find himself -- making many exceptions.

25 Now, if you object to that, that is different.

1 Senator Chafee. Well, so be it, and I won't pursue
2 that, except to say I urge the members, my colleagues, to
3 adopt this amendment that I have proposed here, so that we
4 will know what we are getting into.

5 As you know, I feel deeply concerned about the proposal
6 of Senator Reigle, as to what it is going to do to our trade.
7 It is odd that many of us are involved with competitiveness
8 activities here. Clearly, this makes us noncompetitive in
9 many areas of the world. I don't see how we can ever expect
10 to sell anything else to the Soviet Union if this legislation
11 should be enacted, unless cynically we expect that the
12 President is going to declare an exception to the Soviet Union
13 because they represent a pretty good market.

14 But as far as Korea goes, Korea has got a surplus with
15 us; so he will impose it against Korea.

16 Just yesterday we all saw the article, perhaps, in the
17 New York Times, "Japan Winning Race in China -- persistence,
18 patience, key. Chinese imports in 1986" -- and showing that
19 Japan has 29 percent of the market and the U.S. has 11
20 percent. I am not clear, but I suspect we probably got a
21 mild surplus. Do we, in our trade with China? Do you know,
22 Mr. Woods?

23 Mr. Woods. No.

24 Senator Chafee. We don't? I don't know -- whatever it
25 is. But the opportunities are there, whether it is for

1 Boeing Aircraft, or whatever it might be, to sell in China --
2 IBM, or whoever.

3 And yet, we are saying today, if we pass this legislation
4 without further consideration, that China is out. There are
5 no trade unions in China; nobody suggests there are. But if
6 my amendment should not be adopted, and the Riegle amendment
7 were adopted, that would be the result.

8 So, therefore -- Senator Danforth has a question here, but
9 I would propose that -- I suppose the proper thing would be
10 to have mine -- is it procedurally correct to have mine a
11 substitute, Mr. Lang?

12 Mr. Lang. Yes, sir, that is what we understood you wanted
13 to do. Yours would be a complete substitute.

14 Senator Chafee. Rather than an amendment?

15 Mr. Lang. Yes, sir.

16 Senator Chafee. Well then, which one would we proceed to
17 vote on? Mine first?

18 Mr. Wilkins. Under the committee rules, the Chairman
19 may put the amendments in the order he thinks appropriate.
20 In considering a substitute for an offered amendment, it
21 probably would be appropriate to consider the substitute before
22 the underlying amendment. That is the normal Senate
23 procedure.

24 The Chairman. That is normally our procedure, is it not?

25 Mr. Wilkins. That is correct. That is the normal

1 procedure on the Senate floor.

2 The Chairman. We will follow normal procedure on that,
3 and the vote would come first on your substitute. That is
4 just the way we do it on the floor of the Senate.

5 Senator Chafee. If everybody has a copy, at the proper
6 time -- I am not trying to cut anybody off, Mr. Chairman, but
7 at the proper time I would move my substitute.

8 The Chairman. We will see that there is full debate on
9 it.

10 Yes?

11 Senator Danforth. Mr. Chairman, I have some questions
12 for Senator Riegle.

13 First, in his description of his amendment, he referred
14 to "patterns and practices." What I wanted to make sure was
15 that that is the intent of the Senator's amendment. In
16 other words, a single act or a single incident would not
17 trigger even discretionary use of section 301; but rather,
18 what the Senator is after is a pattern of behavior which is
19 the violate of labor rights.

20 Senator Riegle. I would say yes, and I would go even
21 further than that: I think it has to be a persistent pattern.
22 I think you have to have, really, a very substantial showing --
23 not individual cases, but I think you have to show really a
24 general pattern of the denial on a broad scale.

25 Bear in mind, there is a second aspect of this, and even

1 that has to be judged against the level of development of
2 the country involved. We are not trying to mandate standards
3 for other countries, per se, by any arbitrary yardstick.
4 So, you know, every country is sort of moving along at a
5 different level of development. But where there is a broad,
6 pernicious pattern that is clear and obvious, that is what
7 we are really addressing here.

8 Senator Danforth. All right. I want to get to that
9 level-of-development question in just a minute; but I wonder
10 if you would be willing to write into the text, or if we
11 could agree now that if your amendment is agreed to by the
12 committee, the staff would be instructed to write into the
13 text of your amendment that what we are talking about is a
14 pattern or practice of behavior rather than a simple act.

15 Senator Riegle. Than an isolated incident? I would be
16 inclined to say Yes; but my colleague and cosponsor Senator
17 Heinz -- I would be very much interested in his view on that
18 as well. And I might say, too, that Senator Mitchell is also
19 a cosponsor of this amendment, and Senator Moynihan.

20 Senator Heinz. I have always construed the amendment to
21 not target one or two acts, but a pattern or series of
22 practices. And I would have no objection, Don, to our
23 accommodating Senator Danforth to make that explicit, to the
24 extent it is not explicit.

25 Senator Riegle. Do you know, It seems to me that in

1 a sense we are creating a legislative history here, and I
2 think it is understood what we are saying.

3 I think my preference would be, in light of the fact that
4 that is the clear intent, having now stated it here, that
5 we put it in the committee report rather than -- I mean, I
6 am always a little edgy about going into a rewrite on the
7 amendment itself that sort of goes off into another zone.
8 I would rather nail that down as explicitly as it needs to be
9 in report language so there is no confusion.

10 (Continued on next page.)

1 (Continued from preceding page.)

2 Senator Danforth. I would suggest that it be put into
3 whatever language gets out of this committee. I think that it
4 is very important that it be written in the bill, because we
5 all know that the business of trying to construe legislative
6 intent is very iffy. It involves not only what was said in
7 committee, but on the floor where people oftentimes put
8 written statements in the Congressional Record as though
9 given, which nobody has ever heard before, which is supposed
10 to create legislative intent.

11 And I really think that if our intention is to address
12 patterns and practices as opposed to isolated acts, that it is
13 very important that that be written into the legislation.

14 Senator Riegle. Let me say to the Senator, I very much
15 would like to have the Senator's support. And if we can find
16 a way to craft this in a way that lets him feel that he can
17 support it, I would feel much better about the amendment.

18 If phraseology such as the kind we have been describing
19 here are a consistent pattern, or words to that effect, is
20 something that you feel strongly we ought to have, that is
21 clearly my intent. So lets try to work that out.

22 Senator Danforth. Before I sign on to the amendment, I
23 have some other questions. But as I understand your answer,
24 it is conditional to my support of the amendment?

25 Senator Riegle. Well, I agree with the Senator and I

1 am prepared to go that way. But if I am going to make a
2 whole series of adjustments and then find that we haven't
3 gotten to the point where we can support it on a broader
4 basis, then I guess I would like to think about it again.
5 But I would like to accommodate the Senator if I possibly
6 can.

7 The Chairman. I think what he means is he wants to know
8 what the final price is.

9 (Laughter)

10 Senator Danforth. Let me ask a second question and
11 relate it to a question that was put by Senator Chafee and
12 answered by Ambassador Woods.

13 But is the objective here to get at sprayed practices
14 or matters that affect trade, or is the objective to
15 basically use sprayed as a tool of foreign policy or human
16 rights objectives?

17 We have had this ongoing question that has been raised
18 by Senator Armstrong relating to slave labor in the Soviet
19 Union, and it comes up from time to time.

20 And Senator Moynihan has argued this, I know, on the
21 floor. We have argued it with each other on the floor, the
22 extent to which trade should be used as a sanction for other
23 practices that are really unrelated to trade. Should the
24 United States refuse to deal with the Soviet Union because of
25 its human rights violations? Should the United States

1 refuse to deal with South Africa or with this country or that
2 country because of human rights violations?

3 And my understanding of what Ambassador Woods responded
4 was that this amendment is specific trade. In other words,
5 this amendment does not authorize the President to use
6 Section 301 for matters that are extraneous to trade. We
7 are not going to use this as a foreign policy weapon or a
8 human rights weapon, but only use it insofar as the various
9 matters that are complained of here do have trade effects.

10 Senator Riegle. If I can respond.

11 I think you have put in a very profound way the new
12 reality that we face, and it is clearly trade related and
13 only trade related, and not an effort to try to reach through
14 and tamper tinker with the practices in other countries.

15 And I think this is why the support developed as
16 strongly as it did in the House, which has been at this
17 issue longer, and why this provision became a provision in
18 Congressman Michel's Republican version in the House,
19 indicating a very broad sort of bipartisan concensus on it.
20 And it is that the world trading system has now connected
21 itself so fully as we see, as why we are having this hearing.
22 And with trade moving the way it is back and forth in
23 increasing volumes and velocity, us running a deficit last
24 year of \$170 billion, that these issues now take on a very
25 powerful economic meaning and impact. And our workers in

1 this country now finding themselves in a new kind of
2 international economic relationship with workers in other
3 countries.

4 And so it is no longer just a matter of a moralistic
5 assessment as to what may be going on in another nation. It
6 is the scale of the world trading volume now lifts this up
7 to take on an economic impact that is very real in terms of
8 its effect on our trading balances and on our own workers
9 and living standards in this country.

10 Recognizing that, this amendment is not trying to be
11 punitive as such. We recognize that there are different
12 levels of development in the world, but we want to take
13 account of the fact that these conditions can now start to
14 yield an enlarging economic effect that come right straight
15 through in terms of the trade balances that can be very
16 destructive to our country.

17 In fact, if you extend this argument longer enough you
18 could get to the point where we could see great pressure that
19 sort of pull standards in this country down to the lowest
20 common denominator around the world, all other things being
21 equal, to put ourselves "in an economically competitive
22 situation."

23 Obviously, we do not want to do that. We think there
24 are some minimum standards on child labor and on the length
25 of the work week, and work place hazards, and so forth.

1 Now other countries do not agree with us. They are not
2 quite as far along as we are in many cases, and we are not
3 trying to impose our standards on them. But this allows to
4 take account of the fact that because the world trading
5 system now has changed into the new system that we now have,
6 that there are powerful economic trade realities. So it is
7 all trade centered. It is not to try to reach in and --

8 Senator Danforth. Then let me, if I could, ask
9 Mr. Lang, is it clear, in your opinion, in the way the
10 amendment is written that it has an exclusively trade
11 effect? In other words, this is not an effort to use trade
12 for matters that are unrelated to their trade?

13 Mr. Lang. This amendment, Senator Danforth, is a
14 definition to the word "unreasonable". In order for an
15 unreasonable practice to be actionable under Section 301, you
16 not only have to find that the foreign practices unreasonable
17 but that it burdens or restricts U.S. commerce.

18 Senator Danforth. All right.

19 Mr. Lang. That is the connection I was making before.

20 Senator Danforth. So it is absolutely clear.

21 Now a final question. Senator Riegle has mentioned in
22 his discussion several times now in our conversations the
23 question of level of development, the level of development.
24 Does that modifier apply to all of the worker rights issues
25 that are enumerated in the amendment, or does it apply to

1 only the one relating to standards in minimum wages, hours
2 of work, occupation, safety and health?

3 Senator Riegle. Those are the ones we specify. And
4 the reason for doing so, if in setting aside the right to
5 association and the right for workers to try to bargain for
6 themselves, in a sense, that is the first spark of workers
7 being able to take and try to assess their condition and
8 decide if they want to try to move in the area of the ones
9 that we actually spell out, to try to move in the direction
10 of minimum wages or hours of work or occupational health
11 and safety.

12 So in a sense, the most elemental right is the right
13 even to sit down and have a conversation on that.

14 I have cases that I have not cited here--I would be
15 happy to--of extreme cases in places like South Korea, which
16 run huge trade surpluses with us, and countries like Chile,
17 and others, where even that initial step of workers trying
18 to talk to one another about how they might change their
19 working conditions, where workers have been brutalized, have
20 been beaten, been murdered, well documented cases.

21 And so in taking into the level of economic
22 development, I have enumerated only those areas of minimum
23 wages, hours of work and occupational safety and health, and
24 left out what I think is across the line in the other area,
25 and that is just sort of the basic human right of workers

1 to be able to talk to one another, to see if they can
2 organize.

3 Senator Danforth. What would the Senator's view be
4 of defining that modifier, "level of economic development",
5 to all of the workers' rights?

6 Senator Riegle. Well, I would like to think about that
7 for a moment. In my own mind, I sort of see a difference in
8 kind there. But I would like to think about it a little
9 more.

10 Let me ask Senator Heinz if he has what you want.

11 Senator Heinz. Mr. Chairman.

12 The Chairman. Senator Heinz.

13 Senator Heinz. I would make a very real distinction
14 between the rights of association, the rights to organize
15 and bargain collectively, first. And the fifth part of
16 Senator Riegle's amendment. The first several I don't
17 think should be qualified by taking into account a country's
18 level of economic development.

19 It would imply to do so that you would not want if you
20 had a low level of economic development to permit collective
21 bargaining. And I would think that we would not want to go
22 on record as saying that if you were hypothetically in a
23 country where there was an exploitation for trade purposes
24 of an underclass, that that would be okay as long as the
25 country were poor enough. That seems to me to be a flawed

1. principle.

2 I would say to Jack Danforth that he made, I thought,
3 earlier a very important point, and that is that this
4 amendment is trade related, not human rights related, per se.
5 And that the reason for it is to take into account the kinds
6 of activities that that could have an impact on trade, and
7 that, conversely, it is not an amendment that gives a
8 President a means of using trade to affect some kind of
9 policy or human rights initiative that such a President
10 might feel strongly about.

11 I think that is clear from the way the amendment works.

12 Senator Danforth. Let me just say this.

13 If the amendment were modified in the two respects
14 that I have suggested, one, relating to the pattern of
15 practices, and, two, relating to the level of economic
16 development, meaning to all of the areas, I would not have
17 any problem. I would be willing to support it.

18 I think that the level of economic development is
19 simply, as I understand it, what the President has taken
20 into account. I think that with respect to, say, the
21 generalized system of preferences, the Caribbean Basin
22 Initiative, we have recognized as a matter of policy that
23 there are certain instances where the basket case, nature
24 of the country, calls for a different type of consideration
25 on the part of the United States.

1 And it would seem to me that those are -- those two
2 changes are important changes. But I don't have a laundry
3 list for you. I don't have a list as long as your arm that
4 if you change this then lets go into the next item. But I
5 do think that those two would be a major improvement. And
6 if it could be improved, I would be willing to support you.

7 Senator Riegle. Well, let me make it clear. I
8 certainly accept the first, and I think I may very well be
9 inclined to accept the second. Patterns and practices, I
10 think, ought to be in there, and I think it is a very valid
11 point to make.

12 Let me to test a second. When I think in the case of,
13 say, a nationwide Korea, in my own mind today, it would
14 seem to me that by any reasonable standard that Korea is a
15 major -- has come forward as a major nation. They would not
16 be in the basket case variety, South Korea.

17 And if we are going to have the ability to assess
18 countries in terms of where they are, the case of a Korea,
19 on the one hand, versus a Bangaledesh, on the other hand,
20 might be a case -- would be a case where Korea clearly would
21 be expected where they are to allow rights of association,
22 and the rights of workers to organize and collectively
23 bargain. I think they have got trade surplus with us this
24 year of \$15 billion, and they are doing very, very well.

25 Is that what you have in mind, of being able to have

1 the flexibility in here of making that kind of differentiation
2 but not to use it in such a way as to rule out --

3 Senator Danforth. Yes. I don't express any position
4 one way or another on the Korea question. That is debateable.
5 It is still covered by the GSP, and some people have said
6 it should be out. Last year it was out in the bill we
7 introduced. I don't express any view on one country versus
8 another. But what I am saying is that I think that these
9 are all great goals. I would be hard pressed to
10 differentiate among them.

11 I think that to the extent the world moves in these
12 directions, we are going to have a much better situation,
13 not only in those countries but in the United States. And
14 I think that these should be objectives of the United States.

15 But basically what we are saying, the whole way this
16 is written, and with the explanation that Senator Moynihan
17 has, is that this is going to be something that is viewed
18 on a very flexible basis. We are not going to rule out
19 110 countries or so and not do business with them because of
20 this provision in the law. And, therefore, it seems to me
21 that it is important to spell out that we expect flexibility
22 on the part of the Administration.

23 First, we do not expect that the Administration to be
24 legalistic in singling out the one Act or two.

25 Second, that we would expect the Administration to see

1 countries in the light of their level of economic
2 development in applying it.

3 Senator Packwood. Does that mean, Jack, that a poor
4 country can deny the right of association and the right to
5 bargain, but at some place it passes a threshold of
6 prosperity and then it cannot do that?

7 Senator Danforth. I think that the whole thrust of
8 this amendment, as I understand it, has been not to be
9 extremely precise and legalistic in the way that it is
10 written, and that I don't think that there is a particular
11 level that would be, you know, for all times viewed as that
12 point at which a country would shift from having these
13 rights applied to it and not apply to it. But I do think
14 that an Administration, in dealing with this kind of
15 provision, has to take into consideration both the political
16 and the economic realities of the situation. And I think
17 that this says the level of economic development modifier
18 says that the Administration does take that kind of thing
19 into consideration.

20 The Chairman. Let me say to the members of the
21 committee that I think there has been a constructive
22 exchange of opinions here, and the debate has spilled over
23 on both the substitute and the underlying amendment. And I
24 hope that we can summarize our comments and get a vote. And
25 I would intend that we vote, first, on the substitute, if

1 there is no objection, and follow that, if the substitute
2 does not prevail, with the underlying amendment, if there
3 is no objection.

4 Senator Danforth. Mr. Chairman, I don't intend to
5 debate this any further, but I would like to know the
6 answer to the proposition that I put to Senator Riegle before
7 I vote.

8 The Chairman. Are you prepared, Senator, to comment on
9 this?

10 Senator Riegle. Yes, I am. We are all thinking as we
11 are talking here.

12 The Chairman. Well I can ask as some others are
13 trying to speak if you want further time to think about it.

14 Senator Chafee. Mr. Chairman.

15 The Chairman. Yes.

16 Senator Chafee. I am ready to move the substitute.

17 And I would say that all of this discussion has shown to me,
18 and I hope to all of us, the need for the substitute.

19 All we are saying is, let's pause for a year and look
20 this over and decide what we are talking about. This is
21 really -- I cannot stress enough the substance and the major
22 impact that this amendment is going to have on our trade
23 relationships. And I just hope that we pause for a minute
24 and take a look at what we are doing. And I hope we would
25 not pass an amendment and say, well, we are going to pass the

1 Riegle amendment, but just remember there are so many
2 loopholes that there are ways around it. I don't think that
3 is the way we want to legislate. And I would hope that
4 there would be support for my blue ribbon -- proposed blue
5 ribbon commission, which has to report within a year, and
6 we can revisit this again and follow the recommendations of
7 the commission, at least have the benefit of their thoughts
8 into this very, very major piece of legislation.

9 The Chairman. Senator Roth has been seeking
10 recognition. Senator Roth.

11 Senator Roth. Mr. Chairman, I missed part of the
12 discussion, but perhaps certain of this was covered. But
13 for my benefit, I would like to ask Mr. Lang and possibly
14 Senator Riegle.

15 I am still not clear what discretion is within the
16 President under this proposal. I am very sympathetic to the
17 objectives of the legislation. But under a 301, normally
18 an unreasonable abuse is found for the White House to take
19 mandatory action. But what provides the rationale for
20 making exceptions in the amendment? In other words, let's
21 take the case of the Soviet Union. I think most of us would
22 agree that there certainly aren't the benefit of collective
23 bargaining there. How does the President make a finding or
24 ignore that fact?

25 Mr. Lang. There are two basis of flexibility in the

1 amendment beyond those that would be available on the
2 unreasonable track of 301.

3 First, the President may determine that an Act, policy
4 or practiced described in the amendment would not be
5 unreasonable if he finds that the country concerned has
6 taken or is taking steps to demonstrate a significant and
7 measurable overall advancement to afford throughout the
8 country to write some standards and questions.

9 Senator Roth. But taking the Soviet Union, that would
10 be very difficult to make that kind of a finding, wouldn't
11 it?

12 Mr. Lang. Well, I would defer to the Administration,
13 but I suspect to.

14 Senator Roth. Mr. Ambassador?

15 Mr. Lang. There is one other element of flexibility,
16 and that is, as it is currently drafted, with regard to the
17 element of the amendment relating to a failure to provide
18 standards for minimum wages, hours or work and occupational
19 safety and health, the President is to take into account the
20 country's level of economic development.

21 Senator Packwood. Well, Mr. Chairman, let me take a
22 whirl at this answer, because I don't think Mr. Lang is
23 talking about the same thing I thought we were talking
24 about yesterday.

25 The Chairman. Senator Packwood.

1 Senator Packwood. As proposed by Senator Riegle, this
2 is not a violation of the trade agreement. There is no
3 trade agreement on these. We wouldn't be discussing these if
4 we had a trade agreement on them. This is an unreasonable
5 practice.

6 Mr. Lang. Yes, sir.

7 Senator Packwood. And at the end of it, the President
8 has total discretion to say, despite all of this, I am just
9 not going to do it. He has to go through the findings. He
10 has to say, yes, you bet they're violating worker rights.
11 And they have only got a 3-year minimum age for children to
12 work, and they still allow bamboo scaffoldings, and all
13 those things. And I am going to ignore all that. And there
14 is no mandatory power to make him act, as I understand what
15 we mean by "reasonable violation" as opposed to
16 "unjustifiable violation," -- unreasonable violation.

17 Are we clear on what we meant yesterday, because I think
18 this falls under the unreasonable category?

19 Mr. Lang. It does fall under the unreasonable
20 category. And in that category provided the President can
21 at the end of the process make certain findings and take no
22 action at all.

23 The Chairman. Gentlemen, are we prepared to vote?

24 Senator Wallop. Mr. Chairman, I would just like to, if
25 I may, make an observation because the conversation here

1 has told me precisely what I did not want to hear. The basis
2 for flexibility mean that this is a tool for selective
3 retribution, not for the advancement of a philosophy. Since
4 it is trade related and not foreign policy related, is it
5 then sector specific? Is it that we just want to have
6 labor unions where they build automobiles but where they
7 have prisoners in the forest trapping animals and the furs
8 are not a part of it? And we don't do it. That is sector
9 specificity. And the lack of specificity in this is denying
10 the right of association.

11 Now what to hell does that mean? At what level it
12 permits any former force to compulsory labor? Does that
13 apply to us with prison labor? Taking into account a
14 country's level of economic development fails to provide
15 standards for minimum wages. Who judges the validity of
16 those standards? We are going to say my standard is 2 cents
17 an hour, and my standard is 10 hours a day, seven days a
18 week. And my standard is that we will provide bandades if
19 you cut yourself. But that is it. All it says is "provide
20 standards."

21 So what you have devise here is not a means of seeking
22 to protect the world workers. What you have devised is a
23 means by which you can take out a little trade store sort and
24 do battle. It isn't the moral position at all. It is, in
25 fact, a venal little policy tool to achieve a trade-related

1 event, not a labor-related event. And to that extent, I
2 could not support it.

3 Senator Riegle. Mr. Chairman, let me if I may, after
4 conferring with Senator Danforth. I want to find an
5 agreement with him on that second point as well as the first
6 point, and that would be to have an understanding that in
7 this assessment that is made, if a case is brought, there's
8 a finding of fact, the President and his advisors are able
9 to take into account a country's level of economic
10 development as it would relate to all of the items that we
11 enumerate here, I am not sure there is really a difference
12 when all is said and done, if we have a pernicious
13 persistent pattern going on in a nation that has become a
14 trading nation of consequence in the world trading system--
15 certainly a nation of consequence within the trading system
16 going on within the United States in a major way--then it
17 seems to me that that kind of country would find itself
18 having graduated up into a category of economic power and
19 consequence, where I think by any reasonable standard they
20 should be expected to be moving in all of these directions.
21 And I don't think that most reasonable people would argue with
22 that if we went through a process of a case being brought,
23 a finding of fact, an establishment of the pattern, and so
24 forth.

25 So I think that we can accept that second suggestion of

1 broadening this in that respect, because I think, in effect,
2 that that doesn't really violate the intent of what we are
3 hoping to accomplish here.

4 Senator Danforth. Well, I would say to the Senator
5 that I appreciate his understanding and accommodation on that
6 basis with both of those matters taken care of. That could
7 be done is the draft is accepted?

8 Mr. Lang. Yes sir.

9 Senator Packwood. The President just says this country
10 isn't quite rich enough yet to have worker rights in essence.

11 Senator Riegle. Well, if I may say, I don't think it is
12 as simple as that. I mean, the President has to finally make
13 the value judgment, and if the President says, look, even
14 though we see things out here that we think are bad and
15 things that we wish were different, he makes a finding based
16 on an assessment of where that country is and he decides to
17 not decide to try in some way to act against.

18 That is a judgment that has to be made. But, bear in
19 mind, there is a whole process that goes on before that. And
20 I think that the facts in the case--how powerful they are,
21 in essence--guide the decision at the end.

22 I don't view any President as being somebody who wants
23 to torpedo the intent of the law if the finding of fact is
24 powerful enough.

25 The Chairman. Gentlemen, are we prepared to vote? Do

1 you move your amendment, Senator Chafee?

2 Senator Chafee. Yes.

3 The Chairman. Substitute is offered if you would like
4 to call the role -- all those voting for or nay.

5 The Clerk. Mr. Matsunaga?

6 Senator Matsunaga. Nay.

7 The Clerk. Mr. Moynihan?

8 The Chairman. Nay by proxy.

9 The Clerk. Mr. Baucus?

10 Senator Baucus. Nay.

11 The Clerk. Mr. Boren?

12 (No response)

13 The Clerk. Mr. Bradley?

14 (No response)

15 The Clerk. Mr. Mitchell?

16 Senator Mitchell. Nay.

17 The Clerk. Mr. Pryor?

18 Senator Pryor. Nay.

19 The Clerk. Mr. Riegle?

20 Senator Riegle. Nay.

21 The Clerk. Mr. Rockefeller?

22 Senator Riegle. Nay by proxy.

23 The Clerk. Mr. Daschle?

24 Senator Daschle. Nay.

25 The Clerk. Mr. Packwood?

1 Senator Packwood. Yea.

2 The Clerk. Mr. Dole?

3 (No response)

4 The Clerk. Mr. Roth?

5 Senator Roth. Yea.

6 The Clerk. Mr. Danforth?

7 Senator Danforth. Nay.

8 The Clerk. Mr. Chafee?

9 Senator Chafee. Yea.

10 The Clerk. Mr. Heinz?

11 Senator Heinz. Nay.

12 The Clerk. Mr. Wallop?

13 Senator Wallop. Yea.

14 The Clerk. Mr. Durenberger?

15 Senator Heinz. Nay by proxy.

16 The Clerk. Mr. Armstrong?

17 (No response)

18 The Clerk. Mr. Chairman?

19 The Chairman. Nay.

20 The Clerk. 4 Yeas, 12 Nays.

21 The Chairman. All right. The vote will now proceed on

22 the underlying amendment, the Riegle amendment.

23 Senator Chafee. Mr. Chairman, could I just say one word?

24 The Chairman. Yes.

25 Senator Chafee. A couple of words. Again, I want to

1 stress the importance of this amendment, what its effect is,
2 what its effect really is going to say that there won't be
3 trade, but trade and the right of action will lye against
4 all the communist countries, and I think this is specifically
5 oriented at a non-communist country -- Korea.

6 I think that seems to be from the drift of the
7 conversation and the illustrations here. And what it means --
8 we are not going to change the patterns in those nations,
9 but it certainly is going to be, I believe, disastrous
10 to our markets, our opportunities to sell in those countries.

11 Senator Packwood. Could I say one thing then?

12 Senator Chafee. And when we are talking about
13 competitiveness, this is the ultimate of anti-competitiveness
14 to agriculture and other products.

15 The Chairman. Let me say that we had agreed that we
16 would proceed right to the next vote and I have let
17 Senator Chafee speak. And I think in fairness, I better
18 let the proponent now reply, if you have anything.

19 Senator Riegle. I'm prepared to vote, Mr. Chairman.

20 The Chairman. All right. Would you proceed to call
21 the role.

22 The Clerk. Mr. Matsunaga?

23 Senator Matsunaga. Yea.

24 The Clerk. Mr. Moynihan?

25 The Chairman. Yea by proxy.

1 The Clerk. Mr. Baucus?

2 Senator Baucus. Yea.

3 The Clerk. Mr. Boren?

4 (No response)

5 The Clerk. Mr. Bradley?

6 Senator Bradley. Yea.

7 The Clerk. Mr. Mitchell?

8 Senator Mitchell. Yea.

9 The Clerk. Mr. Pryor?

10 Senator Pryor. Yea.

11 The Clerk. Mr. Riegle?

12 Senator Riegle. Yea.

13 The Clerk. Mr. Rockefeller?

14 Senator Riegle. Yea by proxy.

15 The Clerk. Mr. Daschle?

16 Senator Daschle. Yea.

17 The Clerk. Mr. Packwood?

18 Senator Packwood. Yea.

19 The Clerk. Mr. Dole?

20 (No response)

21 The Clerk. Mr. Roth?

22 Senator Roth. Yea.

23 The Clerk. Mr. Danforth?

24 Senator Danforth. Yea.

25 The Clerk. Mr. Chafee?

1 Senator Chafee. Nay.

2 The Clerk. Mr. Heinz?

3 Senator Heinz. Yea.

4 The Clerk. Mr. Wallop?

5 Senator Wallop. Nay.

6 The Clerk. Mr. Durenberger?

7 Senator Heinz. Yea by proxy.

8 The Clerk. Mr. Armstrong?

9 (No response)

10 The Clerk. Mr. Chairman?

11 The Chairman. Yea.

12 The Clerk. 15 yeas, 2 nays.

13 Senator Heinz. Mr. Chairman?

14 The Chairman. Senator Heinz.

15 Senator Heinz. Mr. Chairman, I have an amendment on
16 the citrus and pasta -- I have an amendment on citrus and
17 pasta that we would like to have presented.

18 The Chairman. I beg your pardon. Let me intervene for
19 just a moment. Senator Packwood had a comment on this.

20 Senator Packwood. I just wanted to explain this vote.
21 I fear it has become a nullity -- maybe I am happy it has
22 become a nullity. I am not sure which. I think by the time
23 we have added the Danforth language and are going to apply
24 economic standards to all countries for all rights, and the
25 President has almost unlimited authority to make first, the

1 economic decision if he wants it; and at the end of it has
2 the power to absolutely do nothing, I think we are going
3 to achieve what Senator Moynihan has suggested. We have a
4 wonderful statement of worker rights that any president,
5 republican or democrat, liberal or conservative, when faced
6 with the stark facts of trade, is simply going to ignore.

7 Senator Riegle. Mr. Chairman, might I just take 10
8 minutes to thank the committee for its consideration in the
9 amendment. I want to thank those who voted for it. I think
10 we have an amendment that does have very considerable meaning
11 and I am appreciative of that.

12 The Chairman. I recognize Senator Matsunaga for a
13 procedural point.

14 Senator Matsunaga. I understand your concern, Mr.
15 Chairman, that I be recorded as having voted "no" on the
16 Durenberger amendment earlier.

17 The Chairman. Without objection, so be it done.
18 Senator Heinz.

19 Senator Heinz. Mr. Chairman, the amendment that I am
20 offering would implement the U.S. obligation under the citrus
21 agreement that cut the duties on EC products, but in addition,
22 to ensure that the pasta negotiations that were a part of
23 that settlement are completed by July 1.

24 It provides that unless the case is resolved by then,
25 imported pasta would be subject to new tariffs, and the amount

1 of the tariff would be equal to the amount of the EC
2 subsidy. That is essentially what the amendment does.

3 Let me explain the background to the amendment. We are,
4 of course, dealing with S. 301. And back in 1981, the pasta
5 industry filed a 301 case with the USTR citing illegal
6 subsidies for Italian EC pasta imported into the United
7 States.

8 The GATT panel found that there were illegal pasta
9 subsidies in Violation Article 9 of the Subsidy Code in 1983 --
10 four years ago. Since then, the EC has completely ignored
11 the findings of that panel and has, in fact, used a variety
12 of procedural maneuvers to prevent the GATT Subsidy Code
13 Committee from even considering the panel report.

14 In 1985, the U.S. threatened retaliatory tariffs on
15 pasta, and at that point, the EC entered into an interim
16 agreement promising to reach a negotiated agreement by
17 October 31, 1985 -- that is two years after the panel reported.

18 At that point, the U.S. agreed to postpone imposition of
19 tariffs. By the October 31 deadline, not only was there no
20 agreement, but the Italian subsidies had actually increased
21 by 176 percent, from 2-1/2 cents a pound in July to 6.9 cents
22 a pound in October.

23 And so, at that point, in light of those developments,
24 President Reagan imposed a 40 percent punitive tariff on
25 November 1, 1985. And then, during the next few months, the

1 Italians increased the subsidies to offset the tariff, until
2 the subsidy level reached 13 cents, that is to say, 50 percent
3 of wholesale value. So they had more than swallowed the
4 tariff.

5 And as a result, illegally subsidized pasta continues
6 to flow into the United States and the tariff has been
7 substantially increased ever since then. In August of 1986,
8 the USTR and the European Community reached an agreement on
9 the citrus dispute, and at that point, the U.S. agreed to
10 drop the tariff on pasta, subject to there being a final and
11 permanent agreement by the end of July.

12 Now, as you can see, what we have is an industry that
13 went the dispute settlement process route, it got a finding
14 from the GATT in its favor, the procedural process at the
15 GATT frustrated them from getting any relief through the GATT
16 as they should have; then along comes the citrus dispute,
17 and they are told you can wait on the sideline.

18 While they are waiting on the sideline, the Europeans
19 continue -- the EC continues to increase the subsidy so that
20 it is now 74 percent of the wholesale value of the product.
21 Imports have substantially increased, and as a result, we
22 have kind of a classic case history of how S. 301 can misfire.

23 Now, the purpose of the amendment is to get the EC to
24 do what they said on a total of three occasions they would do,
25 and that is to enter into an agreement of dealing with pasta

1 by the agreed upon date -- namely, the end of July.

2 This amendment would force them to do that by putting in
3 a variable duty that would offset the subsidy, whatever that
4 subsidy was, so that the duty could not be swallowed by the
5 subsidy. And it does not, however, force a particular
6 solution. It doesn't say that the EC has to agree to get
7 rid of their subsidy -- that is certainly the preferred
8 solution. But, it does permit some other kind of undertaking,
9 compensation in effect, to be a part of the agreement.

10 I would hope, Mr. Chairman, that we would adopt this
11 amendment. It seems to me that it is in everybody's interest
12 to make sure that both S. 301 and the GATT mean something.
13 Unless we do get redress by the July 1, 1987 date, I fear
14 that we will have very much weakened and undercut that whole
15 process.

16 The Chairman. Mr. Lang, would you comment on that?

17 Mr. Lang. Mr. Chairman, the situation, as we understand
18 it, is as Senator Heinz has described. There was a settlement
19 of the citrus matter after quite a long period of --

20 The Chairman. 16 years.

21 Mr. Lang. -- 16 years in the GATT, and there was an
22 agreement then to resolve the pasta matter. The Administration
23 might want to comment on the status of that discussion with
24 the European Community.

25 The Chairman. Mr. Woods, would you comment?

1 Mr. Woods. The pasta negotiations, I think, have been
2 the longest continuous negotiations that has ever occurred in
3 the history of man. But, they are continuing this week and
4 we do anticipate that we will be able to have an agreement by
5 July 1, 1987. In that respect, we are firmly committed to
6 that date. We told the European Community that in no
7 uncertain terms.

8 And in mind, it to some degree, moots the necessity for
9 such an amendment, and on that basis we would oppose it.

10 The Chairman. You would what?

11 Mr. Woods. We would oppose it.

12 The Chairman. Now, that gives you another quiver,
13 doesn't it.

14 (Laughter)

15 Senator Heinz. Mr. Chairman, let me ask Mr. Woods one
16 question.

17 The Chairman. You didn't quiver. All right.

18 Senator Heinz. If you were not to get an agreement
19 with the EC by July 1 -- and I hope you do, because that is
20 not my only objective -- but if you wouldn't, what action
21 would you take?

22 Mr. Woods. I don't know. I would be prepared to discuss
23 actions at this particular moment, but I think Ambassador
24 Yeutter has made it clear to the European Community in our
25 negotiations with them that we would seek action.

1 Senator Heinz. Would you consider going beyond a
2 fixed-rate tariff which was the weapon that the President
3 used back in 1985?

4 Mr. Woods. Senator, we have discussed retaliation
5 before, and we try to be creative when we do those things,
6 and I am not sure we have initiated our creative juices on
7 this yet, so I would not be prepared at this point in time
8 to say what form that action might take.

9 Senator Heinz. You would agree, however, that the level
10 of subsidy of pasta increased and indeed did swallow the
11 40 percent tariff. Did it not?

12 Mr. Woods. And more.

13 Senator Heinz. And more. And you would agree that all
14 during this period, consistently, the share of market has
15 continually increased.

16 Mr. Woods. I don't believe that is the case, but I am
17 not certain about that, Senator.

18 Senator Heinz. I think you will find that your staff
19 is going like this. There is not only yes, yes in their eyes,
20 but there is yes, yes in their heads, too.

21 (Laughter)

22 Senator Heinz. Mr. Chairman, I would hope that we could
23 adopt this amendment.

24 Senator Chafee. Mr. Chairman?

25 The Chairman. Are there further comments? Yes, Senator

1 Chafee.

2 Senator Chafee. Mr. Chairman, my state is not involved
3 in this, except possibly as pasta consumers. But, I haven't
4 heard from anybody on it.

5 But, I thought we were trying to keep this legislation
6 non-sector specific. Are there going to be a series of
7 amendments dealing with specific sectors like this? If so,
8 I would just like to review what we might have in the
9 drawer.

10 The Chairman. I must state that I have been urging
11 that we not be sector specific. And I know that we have
12 many of them out there waiting in the wings. Would you care
13 to comment, Mr. Lang?

14 Mr. Lang. The situation in this amendment, Mr. Chairman,
15 is that you have an outstanding GATT ruling in favor of the
16 United States. But, the provision is specific to the sector's
17 concern.

18 The Chairman. Senator Heinz, do you care to comment?

19 Senator Chafee. I would be most interested in the
20 Chairman's views if the Chairman is inclined to accept this,
21 that is fine. I assume that would be enunciating a principle
22 and that if we have got something stashed away we might come
23 and see him about it.

24 The Chairman. Why don't you just roll me on this one.

25 (Laughter)

1 Senator Chafee. Well, I'm not in the mood to roll the
2 Chairman.

3 Senator Matsunaga. Mr. Chairman?

4 The Chairman. I recognize Senator Matsunaga.

5 Senator Matsunaga. May I ask Mr. Woods a question?
6 Will the adoption of this amendment interfere with any
7 negotiations in which you are now engaged with the EC?

8 Mr. Woods. Well, it could, sir.

9 Senator Matsunaga. It could or will it?

10 Mr. Woods. It could.

11 Senator Matsunaga. It could, but you are not sure that
12 it will?

13 Mr. Woods. That is correct, Senator

14 Senator Heinz. Mr. Chairman, on the sector specific
15 point, I think we have to understand that there has to be
16 a sector specific implementation of the citrus agreement by
17 law. It is in the House bill. And so, to say that there is
18 something wrong with this because it is sector specific would
19 mean that we could not implement the citrus agreement.

20 And, what I object to is implementing the citrus
21 agreement without protecting the legitimate rights that we
22 say we are trying to protect, that we have been trying to
23 protect since in 1983 and the GATT panel ruled in our favor,
24 and making, therefore, a sector specific deal just for
25 citrus and no sector specific protection for the industry

1 that has been had now for four years.

2 It is correct, is it not, Allen, that you have to have
3 the citrus requirement that you entered into with the EC
4 is to have Congress put into effect the revised duties
5 pursuant to citrus. Is that not correct?

6 Mr. Woods. That is correct, Senator. I should have
7 made clear that my opposition to the amendment only related
8 to the part relating to pasta. And one of the things that
9 we at the U.S. Trade Representative have learned through
10 all of this negotiation is don't link two disputes.

11 Senator Heinz. But you did.

12 Mr. Woods. Yes sir.

13 Mr. Lang. And I, for my part, should have made clear
14 to the Chairman that the Administration has requested the
15 citrus agreement implementation in its legislation submitted
16 to the Congress.

17 The Chairman. Well, that is a good point.

18 Senator Danforth. Mr. Chairman?

19 The Chairman. Yes.

20 Senator Danforth. This is probably a stupid question;
21 he doesn't know what is going on. But, why in this handout,
22 Senator Heinz, it says that as part of the agreement, the
23 U.S. would lower duties on a number of EC products, including
24 anchovies, juices, and olive oil as part of the agreement
25 to settle the pasta dispute?

1 Senator Heinz. The Senator is correct. Maybe Mr. Woods
2 can explain.

3 Senator Danforth. In other words, as I understand it,
4 another country is caught with its hand in the cookie jar,
5 we take it to the GATT, we win the case; and in order to get
6 the unfair practice removed, we make concessions on anchovies,
7 juices, and olive oil?

8 Mr. Woods. No, Senator, not exactly. There were other
9 elements of the agreement that was made that went beyond the
10 citrus agreement. In this instance, the European Community,
11 in addition to the citrus actions which they took, also took
12 actions to reduce their duties on--I don't know whether it
13 was just almonds or several types of other U.S. specialty
14 agricultural products.

15 Senator Danforth. This is an add on.

16 Mr. Woods. This is an add-on procedure.

17 Senator Danforth. We don't provide compensation to
18 other countries for settlement. Is that correct?

19 Mr. Woods. That is correct.

20 Senator Pryor. Mr. Chairman.

21 The Chairman. Yes. Senator Pryor.

22 Senator Pryor. I don't know if I am going to support
23 this or not. It looks like it may be supported by the
24 committee. But what I think you have brought up, Senator
25 Heinz, is merely a part of a larger problem. The larger

1 problem is agriculture products generally. And you are
2 getting into the citrus and pasta issues, where we really
3 have some major problems before GATT with all agriculture
4 cases.

5 And, I have an amendment that I am considering, I
6 was not aware of your amendment, that would provide a
7 discretion to the USTR, give him an option, of whether he
8 took agriculture matters to GATT or not. We find that the
9 language in agriculture cases is very, very murky, it is
10 very confusing, it is very nebulous, fuzzy. We find that the
11 cases before the GATT that are going before them on
12 manufactured products are very, very clear

13 And, if I might ask Mr. Lang this question, Mr. Chairman.
14 Is not this a part of the general problem of agriculture
15 exports?

16 Senator Heinz. Let me explain one thing.

17 Senator Pryor. Yes.

18 Senator Heinz. There is a part of the GATT that deals
19 very specifically with processed agricultural products,
20 pasta being obviously a processed products. And subsidies
21 of such products, processed agricultural ones, is explicitly
22 forbidden under the GATT. That is why we got the GATT ruling.

23 I think you are quite right with respect to other areas,
24 there is less clarity.

25 The Chairman. Let me state that Senator Chafee, in

1 thinking about this, because I am troubled by the problem
2 affecting the citrus. I do think there is a legitimate
3 difference here and that you are trying to enforce a trade
4 agreement -- something that obviously has to be done. And
5 on that basis.

6 Senator Heinz. If I might just add, Mr. Chairman, the
7 citrus element is in our amendment, which they want, the
8 need.

9 The Chairman. I understand it. And with that in mind,
10 I can understand the distinction and will vote for it.
11 All in favor --

12 Senator Packwood. I wanted to ask Mr. Woods a question.

13 The Chairman. I thought you were asking for a vote.

14 Senator Packwood. You are more optimistic than I am
15 about the July 1 deadline in pasta and the Italians from
16 what I have heard. But, on the assumption this bill is not
17 going to be law by July 1 -- and I don't see how we can get
18 it through the Senate and through Conference and to the
19 President signed by July 1 -- are you saying this amendment
20 doesn't make any difference, or are you saying that if you
21 don't get this agreement this is going to be a mandatory
22 re-imposition of the tariff on pasta?

23 Mr. Woods. Well, as I read this amendment, if it were
24 passed and if there were no agreement on pasta, that this
25 would constitute essentially mandatory retaliation and

1 mandatory re-imposition of the pasta tariffs. Yes sir.

2 Senator Packwood. Well, then I agree with Senator
3 Chafee. I don't know where he is coming out, but now we are
4 sector specific and we are going to mandate a tariff if you
5 don't make the July 1 deadline -- I hope you do, but my hunch
6 is you won't.

7 Mr. Woods. Both we and the European Community are
8 committed to that, and as I said, our negotiators are getting
9 tired of talking about pasta. And my personal hope is that
10 we are wearing each other down to be able to get to a
11 resolution of this issue that is fair to the U.S. pasta
12 industry.

13 Senator Heinz. Mr. Chairman, if I just might say to my
14 friend, Bob Packwood, the reason we are in this very odd box
15 and the reason we have what appears to be a sector specific --
16 even though it is multi-sector, because it is citrus, then it
17 is almonds, oils, and it is all a variety of processed
18 agricultural commodities -- is the reason that Allen Wood
19 says it is, which is they did something that they are never
20 going to do again, which is they linked two disputes and
21 traded one off for the other.

22 That is what gets us into this box. And as a result,
23 we are trying to find an equitable way to get out of this
24 box. I would have some difficulty simply supporting the one
25 part of the bill that Allen wants here, which is sector

1 specific if we can't be sure it is balanced. If they hadn't
2 cross-linked these two disputes, I wouldn't be doing anything.
3 But, they have done it.

4 Mr. Woods. If I may, we did not trade off one for the
5 other. It has always been our view that we must have a
6 solution to pasta.

7 What we did was we used pasta as retaliation, as it
8 were, for a dispute which we finally settled, thereby
9 resulting in the lifting of the pasta tariffs which we had
10 applied in retaliation to the activities on citrus. It was
11 never our intention not to continue to pursue the problems
12 we had with the European Community on pasta.

13 We did think at the time -- it turns out somewhat
14 unwisely, I think -- that we could give the pasta industry
15 some immediate relief by using them as an item, using pasta
16 as an item for retaliation.

17 The Chairman. Gentlemen, are we prepared to vote on
18 this?

19 Senator Matsunaga. I might comment, Mr. Chairman, that
20 I gather from the comments of Mr. Woods that the amendment
21 would interfere with the ongoing negotiations, that it would
22 be taken as a retaliatory action on our part, and I think,
23 perhaps, on that basis I would be inclined to vote against
24 the amendment.

25 Senator Heinz. Mr. Woods, do you really think that,

1 given the drafting of the amendment, where the EC has said
2 that they will enter into an agreement. The amendment says
3 fine, you can either enter into the agreement, or, in effect,
4 we will offset the subsidy?

5 Mr. Woods. I, Senator, have gotten out of the business
6 of trying to predict how other governments will react to the
7 things that we do, because they frequently surprise us.

8 I do think it is possible, as I indicated to Senator
9 Matsunaga before, that they could react in a manner which
10 is negative. I certainly wouldn't say that they definitely
11 would react in that manner.

12 It is, I should make clear, an item which would be
13 considered mandatory retaliation, and one does not know
14 how they might react to that at all.

15 The Chairman. If there are no further comments.

16 Senator Chafee. I take it, Mr. Woods, you would rather
17 not have this amendment. Is that correct?

18 Mr. Woods. Well, if the amendment were split into two
19 parts in a sense. If we could have citrus part without the
20 pasta part, that would certainly be my preference, yes sir.

21 Senator Daschle. Mr. Chairman?

22 The Chairman. Yes, Senator Daschle.

23 Senator Daschle. I just have one minor clarification,
24 and that is, if in the event there is not a negotiated
25 settlement, is it Senator Heinz's intention that this

1 automatically occurs, or does it give the USTR or the
2 President discretion to utilize this as a tool for
3 implementation?

4 Senator Heinz. Well, in a sense, there will always be
5 discretion until we enact legislation. But, were the
6 legislation enacted --

7 Senator Daschle. Let's assume this were enacted.

8 Senator Heinz. No, it would be mandatory.

9 Senator Daschle. Mandatory.

10 Senator Heinz. Right.

11 Senator Daschle. The President is directed to do this?

12 Senator Heinz. Yes, and this is a classic example of
13 an unjustifiable trade action, and the GATT has found it.
14 And, therefore, it is consistent with what we have in the
15 legislation which mandates retaliation. The only reason I
16 am bringing it up at this time is that the disputes on
17 citrus have been linked with this. And we are required to
18 act on citrus to implement part of the deal, but a deal which
19 costs -- at least in the interim -- the pasta industry a good
20 deal.

21 Senator Daschle. My only comment is that it appears that
22 we have given significant latitude in so many other parts of
23 the bill to the President and the USTR to determine whether
24 implementation of a certain section is necessary, and it
25 appears that we are precluding him from that option in this

1 case.

2 Senator Heinz. I think it all depends on whether you
3 want to implement the citrus agreement.

4 The Chairman. All right. Are we ready to vote? The
5 clerk will call the role.

6 The Clerk. Mr. Matsunaga?

7 Senator Matsunaga. Nay.

8 The Clerk. Mr. Moynihan?

9 Senator Moynihan. Yea.

10 The Clerk. Mr. Baucus?

11 Senator Baucus. Yea.

12 The Clerk. Mr. Boren?

13 (No response)

14 The Clerk. Mr. Bradley?

15 (No response)

16 The Clerk. Mr. Mitchell?

17 (No response)

18 The Clerk. Mr. Pryor?

19 Senator Pryor. Yea.

20 The Clerk. Mr. Riegle?

21 Senator Heinz. Yea by proxy.

22 The Clerk. Mr. Rockefeller?

23 (No response)

24 The Clerk. Mr. Daschle?

25 Senator Daschle. Nay.

1 The Clerk. Mr. Packwood.

2 Senator Packwood. Nay.

3 The Clerk. Mr. Dole?

4 (No response)

5 The Clerk. Mr. Roth?

6 Senator Packwood. Yea by proxy.

7 The Clerk. Mr. Danforth?

8 Senator Danforth. Yea.

9 The Clerk. Mr. Chafee?

10 Senator Chafee. Nay.

11 The Clerk. Mr. Heinz?

12 Senator Heinz. Yea.

13 The Clerk. Mr. Wallop?

14 (No response)

15 The Clerk. Mr. Durenberger?

16 Senator Heinz. Yea by proxy.

17 The Clerk. Mr. Armstrong?

18 (No response)

19 The Clerk. Mr. Chairman.

20 The Chairman. Well, that comes with an explanation.

21 I understand the legitimacy of the request, but I am troubled
22 by the sector question, and I vote nay.

23 The Clerk. 8 Yeas, 5 Nays.

24 Senator Pryor. Mr. Chairman?

25 The Chairman. Yes. Senator Pryor.

1 Senator Pryor. Mr. Chairman, I have an amendment, and
2 I offer this on behalf of Senator Bensten and Senator Baucus.
3 It is my understanding, Mr. Chairman, that the sheet and the
4 explanation that has been passed out, a further explanation
5 is that under item 1 of this language adding to the definition
6 of "unreasonable", that would be in the statute and Sections
7 2, 3, and 4 would be merely in the report language. This is
8 the House language, Mr. Chairman.

9 It is also, as I understand it -- and I hope I am not
10 mis-speaking myself -- I think this is supported by the
11 Administration.

12 Mr. Lang. It is recommended by the Administration, yes.

13 Senator Pryor. And Senator Baucus, I think, has a
14 statement to accompany this.

15 Senator Baucus. This amendment, actually, I think is
16 necessary because what it does is it finds not as
17 unjustifiable, but as --

18 Mr. Lang. Discriminatory.

19 Senator Baucus. -- discriminatory certain actions,
20 state trade actions which actually violated foreign trade
21 practice. The problem is that countries like Canada deny
22 export licenses to Americans trying to export wheat to
23 Canada.

24 We import about \$15 million, I think, \$40 million worth,
25 it is a large amount, a very large amount of wheat from

1 Canada to the United States, but Canada will not even
2 consider any export licenses into Canada.

3 In addition, there are other practices that such a
4 discriminatory pricing Canada takes; Australia does too.
5 Our amendment does not place these practices, does not
6 define these practices within the context of the amendment
7 of other report language. And I firmly believe it is another
8 action we can take to basically knock down some foreign
9 agricultural practices which are unfair -- in this case,
10 state trading.

11 Mr. Chairman, I move the adoption if there is
12 no --

13 Senator Moynihan. I wonder if we can't ask Ambassador
14 Woods what the Administration's view would be?

15 Mr. Woods. If you can give me a few minutes to look
16 at this language. I have not seen it before.

17 Senator Moynihan. Sure. Mr. Lang, do you want to --

18 Mr. Lang. Mr. Chairman, perhaps I ought to explain
19 some of the background. This relates to inter-related ideas
20 having to do with state trading.

21 The GATT has a provision in Article 17 disallowing
22 state trading on other than commercial bases. Senator
23 Bensten is the sponsor of a provision included in the
24 Bensten-Danforth bill to make that actionable under S. 301,
25 and it is made explicitly part of the definition of

1 unjustifiable and, therefore, on the mandatory track.

2 Some Senators and the Administration had reservations
3 about that approach. The first thing the amendment does is
4 place state trading on a non-commercial basis within the
5 definition of the phrase discriminatory, rather than on
6 justifiable. It, therefore, is not on the mandatory track
7 the committee cited on yesterday.

8 Similar GATT provisions are within the scope of the
9 definition of discriminatory under current law, such as
10 failures of countries to abide by most favored nation
11 treatment or to provide national treatment, which are both
12 within the scope of the GATT.

13 The second provision includes within the definition of
14 unreasonable a concept the Administration has recommended
15 to the Congress in the President's competitiveness package.
16 It would be to add to the definition of unreasonable an
17 idea of reciprocity. The specific language is in determining
18 whether an act, policy, or practice is unreasonable,
19 reciprocal opportunities in the United States for foreign
20 nationals and firms shall be taken into account as
21 appropriate.

22 Finally, the amendment Senator Pryor has offered would
23 take certain language that Senator Baucus and he had intended
24 offering with regard to pricing practices of foreign state
25 trading agencies, such as dual pricing, meaning essentially

1 pricing abroad at below the price for state trading
2 enterprise sales in its own market, and variable pricing,
3 meaning discrimination in the pricing of products sold to
4 foreigners, and make those part of the legislative history
5 defining the concept of state trading.

6 Senator Moynihan. Mr. Lang, in all of these things
7 there is a question of what we would do. Don't we have a
8 dual pricing policy for rice? I am not sure, but I thought
9 we did.

10 Senator Pryor. No.

11 Mr. Lang. I am not familiar with the program, Senator.

12 Mr. Woods. We subsidize both equally, Senator.

13 Senator Moynihan. Sir?

14 Mr. Woods. We subsidize both equally, Senator. Both
15 foreign sales, the marketing loan program results in the
16 domestic price and the foreign price being identical.

17 Senator Moynihan. Oh, I see. But equally below cost.

18 Mr. Woods. Yes sir.

19 (Laughter)

20 Senator Pryor. Then let me debate that issue a little
21 bit. I would like to say that it is working, the marketing
22 loan is. And we have it now for rice and for cotton. We
23 have seen a 300 percent increase in sales of cotton in the
24 last year and a half, a 72 percent increase in the sale of
25 rice, and we will be discussing the marketing loan with

1 Senator Danforth and others here, I imagine, next week as
2 relates maybe to this legislation. But, I would like to just --
3 Senator Moynihan. You won't mind my adding that it seems
4 to be working very well, indeed, for the crowned Prince of
5 Liechtenstein.

6 (Laughter)

7 Senator Pryor. I heard my colleague --

8 Senator Moynihan. \$1.3 million cool cash out of the --

9 Senator Danforth. Mr. Chairman?

10 Senator Moynihan. Senator Danforth.

11 Senator Danforth. Mr. Chairman, as I understand it, this
12 amendment has two parts, and one part has been added by
13 Senator Baucus. The question that I have is does the
14 Baucus portion of this get at the same practice we use with
15 respect to our export enhancement program? In other words,
16 does this addition, if we put this in the bill, invite
17 other countries to act against our export enhancements?

18 Senator Baucus. I might respond to that. It is a
19 difficult question to answer, because in most cases we are
20 comparing apples to oranges here. This is not apples with
21 apples.

22 Canada, for example, sells wheat in the foreign market
23 at \$3.00 a bushel, but sell wheat in the domestic market at
24 \$7.00 a bushel. That is an example of dual pricing. Do we
25 have dual pricing? No, we don't. As Americans, have a

1 wheat board to sell wheat in a foreign market say for
2 \$2.00 to \$3.00 a bushel, and sell it domestically at a
3 higher value. We don't have that kind of system.

4 So, in certain cases that is apples and oranges. The
5 same with Australia. Australia has variable pricing practice
6 that go around and sell different prices, not the world price,
7 but different prices in order to underbid American,
8 essentially American loan rates on wheat or soybeans or
9 products that have a loan rate.

10 The loan rate basically determines the part in the
11 world market, and these countries come in just to sell at
12 foreign lower prices.

13 Now, the EP has a program where we take our surpluses,
14 our giantic surpluses -- there are more surpluses than other
15 countries because of the kind of farm program we have -- and
16 then those surpluses are granted as benefits to those cases
17 where we are trying to compete.

18 Now, will this amendment we are considering right now
19 result in a foreign country's action against our EEP? I
20 don't think this amendment at all bears on EEP. This has
21 nothing to do with EEP. This is only getting at and said
22 the finding is unreasonable to state trading practice those
23 practices indicated -- discriminatory pricing, as well as
24 a variable pricing. And in addition to that example, a
25 failure of Canada to grant U.S. wheat exports to Canada a

1 license whatsoever. That has nothing to do with EEP. We
2 allow Canadian wheat to come to the United States, but
3 \$40 million worth, 15 million bushels worth, that Canada
4 isn't allowing. They say no.

5 Canada has pulled that without a license. So that has
6 nothing to do with EEP. So, I think the answer, basically,
7 is no. And that is in answer to your question.

8 Senator Danforth. The problem is this variable price
9 thing. Is the EEP handling variable pricing?

10 Mr. Woods. It has that effect.

11 Senator Danforth. And would this be that other
12 countries remembering our actions be included variable
13 pricing in S. 301, would that lead to our export subsidy
14 for export products to be viable?

15 Mr. Woods. Quite likely.

16 Senator Baucus. Mr. Chairman, if I might respond to that
17 point. Our EEP is not saying, as say Canada's wheat board
18 selling board selling to lower world markets and higher
19 domestic, nor is the same as Canada's. Because, we, first
20 of all, don't have a set EEP program for wheat under where
21 we sell at say at that lower price.

22 Our EEP, in this country, has only been used on a
23 reactionary basis, on a reactive basis. We have only used
24 it because other countries have initially sold and had been
25 selling at a lower price. And we have been reacting to a

1 practice that Canada and Australia have been taking. Now,
2 if we had a consistent price where we initially set the price,
3 Americans initially set the price at the low market, then I
4 think you would have a case here. But we don't do that.

5 EEP is totally a reaction to another country's action.
6 Second, our EEP effect, frankly, doesn't even get at the
7 price level as low as most other countries. We lose sales.
8 We Americans lose sales because the value, the benefit of
9 the surplus that we grant is a benefit and in most cases
10 does not equal, is not as low as, as a practical matter,
11 the price that other countries initially set.

12 So, I think, frankly, there is a big difference here.
13 It is not the same.

14 Senator Danforth. Well, as I understand it, there has
15 been at least an expression of concern by our corn growers,
16 soybean people, and corn growing people as to the effect of
17 this. Senator Pryor, is this part of your amendment? Are
18 you offering this?

19 Senator Pryor. Yes. This is offered on behalf of
20 Senator Baucus, Bensten, and myself. And once again, it is
21 my understanding that the Administration supports this and
22 this is the same as in the House. Is that correct?

23 Mr. Lang. Senator Pryor, there seems to be some
24 confusion about exactly what we are talking about here. I
25 wonder, Mr. Chairman, if --

1 The Chairman. Let me say this, then, if that is the
2 case, because the report I just had was that there is
3 apparently some division of opinion amongst us as to what
4 we have worked out.

5 Mr. Lang. Yes sir.

6 The Chairman. Why don't we delay this until tomorrow,
7 if you don't mind. Senator, I think we have gone now until
8 12:15.

9 Senator Bradley. Mr. Chairman?

10 The Chairman. Yes.

11 Senator Bradley. Maybe we could dispose of one last
12 amendment if there isn't any objection. Oh, I'm sorry.

13 The Chairman. I would really like to close it for now
14 and come in tomorrow morning.

15 Senator Bradley. Fine.

16 Senator Chafee. If Senator Bradley has the amendment,
17 could he give it to us so we could take a look at it
18 overnight?

19 Senator Bradley. Sure.

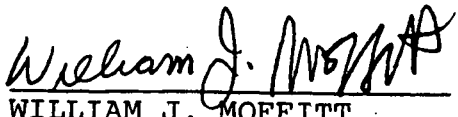
20 The Chairman. That's fine. Let me state that we will
21 go back in again at 9:30 tomorrow morning. And I must state
22 that at the pace we are going, next week you can look at, we
23 will try to get the clearance to work throughout the day to
24 move on and we might have some night meetings too.

25 Thank you.

1 (Whereupon, at 12:10 p.m., the meeting was recessed,
2 to reconvene at 9:30 a.m. in Friday, May 1, 1987.)
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C E R T I F I C A T E

1
2 This is to certify that the foregoing proceedings of an
3 Executive Committee meeting of the United States Senate
4 Finance Committee, held on April 30, 1987, were transcribed
5 as herein appears and that this is the original transcript
6 thereof.

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11 WILLIAM J. MOFFITT
12 Official Court Reporter

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My Commission expires April 14, 1989.

AMENDMENT ON EXPORT TARGETING

Purpose: The purpose of this amendment is to create greater certainty for a victim of foreign export targeting that non-trade action will be taken to help the industry restore its competitive position if the offending trading partner refuses to negotiate an agreement to deal with the problem and the President decides not to retaliate.

Amendment: If the President is unsuccessful in negotiating an agreement to eliminate and fully offset the effects of an export targeting program and he decides not to take retaliatory action, he must convene a private sector panel (modeled after the Young Commission) to advise him within six months on non-trade measures to restore the competitiveness of the U.S. industry that is the victim of the foreign export targeting. Giving due consideration to the panel's recommendation, the President must implement non-trade measures which he believes will restore the competitiveness of the domestic industry. Such non-trade measures would include administrative actions that can be taken under existing Presidential authority or measures that require special implementing legislation. If special authority is required, the President must seek enactment of the necessary legislation to give him the additional authority. The recommendations of the private sector panel and the action taken by the President must be reported to the Congress within 30 days of the private panel's recommendations.

4/30

TARGETING AMENDMENT OFFERED BY SEN. DAVE DURENBERGER

Delete Section 305(c) of S. 490 as it relates to defining
Export Targeting as an unreasonable practice.

REVISED SUMMARY OF BAUCUS AGRICULTURAL PRODUCT 301 AMENDMENT

OVERVIEW

THIS IS AN AMENDMENT TO INCREASE COORDINATION BETWEEN USTR AND USDA REGARDING TWO GOVERNMENT INITIATIVES, SECTION 301 AND THE EXPORT ENHANCEMENT PROGRAM ("EEP"). THE GOAL IS TO USE EXISTING PROGRAMS TO HELP U.S. AGRICULTURAL EXPORTERS COMPETE IN WORLD MARKETS.

THE EEP IS AN EXISTING PROGRAM WITHIN USDA UNDER WHICH THE U.S. USES GOVERNMENT OWNED SURPLUSES OF AGRICULTURAL COMMODITIES TO HELP U.S. FARMERS OFFSET FOREIGN EXPORT SUBSIDIES. WHENEVER THE ADMINISTRATION DETERMINES THAT A FOREIGN GOVERNMENT IS SUBSIDIZING ITS EXPORTS, IT IS PERMITTED TO OFFER THESE EXCESS COMMODITIES TO THE U.S. EXPORTERS TO MAKE THEM COMPETITIVE. ONLY SURPLUS COMMODITIES ARE USED. IF THEY ARE NOT USED, THEY PROBABLY WOULD ROT IN STORAGE.

THE EEP MAY BE USED AT ANY TIME, AT THE DISCRETION OF THE ADMINISTRATION. THIS AMENDMENT WOULD PROVIDE THAT USTR MUST CONSULT WITH USDA AFTER THE FILING OF AN AGRICULTURAL SECTION 301 CASE TO DETERMINE WHETHER IT IS WARRANTED TO USE THE EEP IN THAT CIRCUMSTANCE. IF THE USTR AND USDA DETERMINE THAT IT SHOULD BE USED, THEY SHALL SUBMIT THEIR REPORT TO THE PRESIDENT. THE PRESIDENT WOULD BE REQUIRED EITHER APPLY THE EEP OR REPORT TO CONGRESS THE REASONS FOR NOT DOING SO. THE PRESIDENT WOULD RETAIN FULL DISCRETION NOT TO APPLY THE EEP, SO LONG AS HE REPORTED TO CONGRESS.

SUMMARY

THIS AMENDMENT COORDINATES THE SECTION 301 PROCESS WITH THE EEP. THE AMENDMENT REQUIRES THE USTR TO CONSULT WITH USDA AND OTHER RELEVANT GOVERNMENT AGENCIES ON THE APPROPRIATENESS OF EMPLOYING THE EEP TO COUNTER THE UNFAIR TRADE PRACTICES ALLEGED IN SECTION 301 PETITIONS INVOLVING AGRICULTURAL PRODUCTS. IF, AFTER CONSULTATION WITH OTHER GOVERNMENT AGENCIES, THE USTR DECIDES THAT USE OF THE EEP IS JUSTIFIED, HE MUST SO REPORT TO THE PRESIDENT AND CONGRESS. IF USTR DECIDES THAT USE OF THE EEP IS NOT JUSTIFIED, HE MUST REPORT TO CONGRESS THE REASONS FOR THIS DECISION.

THIS AMENDMENT WOULD PROVIDE A FRAMEWORK TO COORDINATE THE SECTION 301 PROCESS WITH THE EEP. IT WOULD ISOLATE FOR THE PRESIDENT SOME OF THE U.S. EXPORTERS MOST URGENTLY REQUIRE THE ASSISTANCE OF THE EEP. THE AMENDMENT WOULD ALSO ENSURE THAT THE U.S. DOES NOT NEEDLESSLY LOSE AGRICULTURAL EXPORTS WHILE THE SECTION 301 CASE IS BEING CONSIDERED.

NO NEW COSTS WILL BE INCURRED BY THE GOVERNMENT IF THIS AMENDMENT BECOMES LAW. THE AMENDMENT WOULD ONLY HELP THE DIRECT THE COMMODITIES ALREADY ALLOCATED TO THE EXPORT ENHANCEMENT PROGRAM WHERE THEY ARE MOST NEEDED.

UNDER THIS AMENDMENT, THE USE OF THE EEP WOULD BE DISCONTINUED IF THE COMPETING EXPORTING NATION DISCONTINUES THE PRACTICE THAT TRIGGERED THE USE OF THE EEP. THIS GIVES OUR COMPETITORS AN INCENTIVE TO DISCONTINUE, RATHER THAN ESCALATE, THEIR AGRICULTURAL EXPORT SUBSIDIES.

THE RIEGLE-HEINZ WORKER RIGHTS AMENDMENT

1) Amends Section 105 of the bill to include the following as principal negotiating objectives in the new GATT round:

- a) the promotion and respect for worker rights;
- b) a review of the relationship of worker rights to GATT articles, objectives and related instruments with a view to ensuring that the benefits of the trading system are available to all workers;
- c) adoption as a principal of the GATT, that the denial of worker rights should not be a means for a country or its industries to gain competitive advantage in international trade.

2) Amends Section 301 (e) of the Trade Act of 1974 to include the following new language:

"The term includes, but is not limited to, any act, policy or practice that --

Subject to subparagraph (B), with respect to workers --

I. denies the right of association,

II. denies the right to organize and bargain collectively,

III. permits any form of forced or compulsory labor,

IV. fails to provide a minimum age for the employment of children, and

V. taking into account a country's level of economic development, fails to provide standards for minimum wages, hours of work, and occupational safety and health

3) Amends the appropriate section to provide a special rule for determinations involving worker rights which states:

The Trade Representative may determine an act, policy or practice described in Section 301 (e)(3)(A)(i) not to be unreasonable if the Trade Representative finds that the foreign country concerned has taken, or is taking, steps that demonstrate a significant and measurable overall advancement to afford throughout the country (including any designated zone within the country) the rights and other standards described in subclause (I) through (V) of such section.

WORKER RIGHTS "BLUE RIBBON" COMMISSION

Add a new section 307 to S. 490 (p.190, line 20), as follows:

SEC. 307. COMMISSION ON WORKER RIGHTS

By 90 days after enactment of this provision, the Secretary of Labor shall establish a commission to examine the effect on the U.S. economy, including trade and investment, of the failure of foreign governments to grant their workers internationally recognized worker rights and to make recommendations on how best to deal with such effects as are found. The commission shall include representatives of the United States Government, U.S. workers and industry, who shall be appointed without regard to political party affiliation. The work of the commission shall receive appropriate administrative support from the U.S. Department of Labor. The commission shall report its findings and recommendations within one year of enactment of this provision.

HEINZ/MOYNIHAN/ROTH/RIEGLE AMENDMENT ON CITRUS/PASTA

Background

In addition to improving access to the European Community for U.S. citrus products exports, the EC-U.S. agreement on citrus (announced on August 11, 1986) provided that the EC would lower import duties on almonds and other nuts while the U.S. would lower duties on a number of EC products including anchovies, cheeses and olive oil. Also, the EC agreed to a deadline to resolve the dispute concerning EC subsidies for pasta, which a GATT panel had found to violate the GATT Subsidies Code. Under the citrus agreement, the EC must negotiate a resolution to the pasta case by the latter of (1) July 1, 1987 or (2) U.S. congressional approval of the duty reductions on the EC products mentioned in the agreement, such as anchovies, cheeses and olive oil. The U.S. regards the July 1, 1987 date as the deadline for completion of negotiations.

Amendment

The amendment (text of S. 543) would implement the U.S. obligation under the citrus agreement to cut the duties on the EC products. In addition, to ensure that the pasta negotiations are completed by July 1, 1987, it provides that unless the case is resolved by July 1, 1987, imported pasta would be subjected to new tariffs. The amount of the tariff would be equal to the value of the EC subsidy, as calculated by the U.S. Department of Agriculture. The tariff would change monthly as the EC subsidy changed. A floating tariff is designed to prevent the EC from raising its subsidy to negate the effect of a fixed tariff. The tariff would remain in effect only until a negotiated settlement is reached.

Under the amendment the negotiated settlement would have to result in the elimination of the EC subsidy (as envisioned by the GATT panel) or an offset to the EC subsidy, (which would also be consistent with the GATT panel decision).

In effect it would only take effect if the EC did not agree to a negotiated settlement by July 1, 1987. The amendment is designed to encourage prompt resolution of the negotiations if they extend beyond July 1 by eliminating the incentive of the EC to continue its GATT-illegal subsidies.