

1 EXECUTIVE COMMITTEE MEETING

2 TUESDAY, MAY 5, 1987

3 Committee on Finance

4 Washington, D.C.

5 The meeting 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, Baucus, Bradley,
9 Pryor, Riegle, Rockefeller, Daschle, Packwood, Roth,
10 Danforth, Chafee, Heinz, Wallop, Durenberger, and Armstrong.

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

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

1 The Chairman. The hearing will come to order. Please be
2 seated and cease conversation.

3 When we concluded on Friday, we were discussing a concern
4 of Senator Chafee's and an attempt by staff to try to work out
5 some of his concerns to see if they could not be addressed;
6 and I would like a staff report on that at this time. Mr.
7 Lang?

8 Mr. Lang. Mr. Chairman, the problem here is that if you
9 require a plan from the petitioning industry at the beginning
10 of an escape clause case, you may have some firms in the
11 industry that refuse to participate or to participate fully
12 in the plan; and therefore, we think that what we might want
13 to do is require that a plan be submitted and require the
14 International Trade Commission to seek commitments from
15 individual firms and unions in the petitioning industry.

16 In that way, it seems to us, you will be able to overcome
17 the problem if you require the Trade Commission to take the
18 plans or the commitments into account because, if all the
19 firms in the industry don't participate in the plan, they
20 would still be free to make commitments on an individual basis.

21 If you adopted the proposal, we would suggest that you
22 permit the Commission to make the commitment confidential
23 because otherwise the firms would be faced with the possibility
24 of having to reveal publicly their individual objectives and
25 plans. So, the proposal would be to require plans--in effect,

1 to require plans or commitments--and then to require the ITC
2 to take those into account in making its remedy determinations.

3 The Chairman. I think that meets some of the realities
4 of the situation. As a matter of fact, I understand that
5 there may be some companies within an industry where you can
6 require them all you want to, and they won't do it; and that
7 is taken into consideration in deciding whether relief is
8 granted or not.

9 Mr. Lang. Yes.

10 The Chairman. Isn't that correct?

11 Mr. Lang. Yes.

12 The Chairman. I think, from my viewpoint, that addresses
13 the problems, but I would like to hear what Senator Chafee
14 has to say.

15 Senator Chafee. Mr. Lang, would it be your intention,
16 or is this just a suggestion, that this be included in the
17 statute?

18 Mr. Lang. Yes, I think you would have to include it in
19 the statute because --

20 Senator Chafee. Rather than report language?

21 Mr. Lang. Right, because you would be requiring the
22 Commission to take these matters into account; but I guess you
23 could do it in the report language.

24 Senator Chafee. No, no, I am for putting it in the
25 statute. And I think that is a big step forward, as I

1 understand it. I don't know enough about the mechanics of
2 how this thing would work. I would be interested in what
3 Mr. Holmer or Ambassador Woods had to say because--take the
4 confidentiality of the reports; is that possible? Nothing
5 remains confidential in the Government, and I am not being flip,
6 but it is just a fact.

7 Mr. Lang. I might say that perhaps it will --

8 Senator Chafee. So, you have got good guys and bad guys
9 in here, and it seems to me that the people who don't
10 participate reap the benefits, whereas those who do participate,
11 submit a plan, and presumably some confidential information is
12 required, they are the people who are liable to be hurt. But
13 the renegades who don't submit anything will benefit just as
14 everybody else does. Am I correct there, Mr. Woods, or Mr.
15 Holmer?

16 Mr. Holmer. It certainly would seem to be a possibility
17 that could result from the 201 case.

18 Mr. Lang. There are Senators who are concerned that if
19 you require plans, you are going to have exactly that effect.
20 That is the reason we started out with a proposal that
21 encouraged the filing of plans but didn't require it. But
22 this may be a way to solve your problem.

23 Senator Chafee. I like this, and again, it is not a
24 mandatory check list that they go down in determining whether
25 relief will be granted. I think they take it into account, to

1 see how well they have done.

2 Mr. Lang. Right.

3 Senator Chafee. That is fine, Mr. Chairman, as far as
4 I am concerned.

5 The Chairman. All right. If there is no objection, then
6 we will advise staff to develop language to implement it in
7 the statute. If there is no objection, then it shall be done.

8 I would like to call on Senator Rockefeller for a comment
9 he might have at this time.

10 Senator Rockefeller. Mr. Chairman, my comments could come
11 at any point. I am just concerned, I guess--but it certainly
12 isn't in the form of an amendment--that when this process is
13 over, we are going to find that we have loaded a lot of
14 responsibility on USTR. We have given them some additional
15 funding--the submission last month--additional positions, but
16 I think they are all dedicated in fact to the Uruguay Round.

17 And I am just wondering if 15 301 cases come before the
18 USTR after this bill passes, is that about all they can do
19 in the course of the year? It may be all we want them to do,
20 but in any event, I am all for them being lean and mean; I am
21 not for them being exhausted by the time they get to the
22 finish line. I am just wondering if it would be proper to
23 ask Ambassador Woods to give us his suggestions--his counsel--
24 as to what would be required based upon what we have done so
25 far and what it appears that we will be doing in terms of

1 funding, so the USTR can adequately fulfill his mandate?

2 The Chairman. Mr. Woods, are you prepared to comment
3 on that?

4 Mr. Woods. I can in a general way, Senator. It is a
5 good question and one which we will undoubtedly have to address,
6 depending on the outcome of the legislation as we prepare our
7 1989 budget submission; and depending on that outcome, I would
8 anticipate that, if we felt additional funding was necessary,
9 we would probably request supplemental funding through the
10 regular budget processes from OMB at that time.

11 But I think that you have sort of two ways of looking at
12 it. One is it has the potential certainly of increasing our
13 resources required to deal with the 301 cases, as an example,
14 on the one hand; and it is also going to add some requirements
15 to fund travel for GATT negotiations, on the other hand. We
16 feel like we funded that adequately in the budget that we
17 have done thus far, but we also find under the 301 provisions
18 that this committee has considered that we are probably going
19 to find ourselves in GATT dispute settlement cases more
20 frequently. And I am not sure whether we have adequately
21 funded for that at this point or not. That is something we
22 would have to consider.

23 On the other hand, the mandatory retaliation sections might
24 mean that we are going to have fewer--and this is what we have
25 tried to point out to the committee in the past--people that

1 are prepared to negotiate with it if mandatory retaliation is
2 inevitable at the end of the activity.

3 And with regard to the lesser discretion with regard to
4 the President on the 201 cases, that frankly will cut down
5 on some of our analytical work that we would have to do in
6 preparation for a 201 case that is going to the President and
7 the ITC.

8 So, there are pluses and minuses, and I don't think we
9 have had a chance yet to make a determination in any firm
10 sense on whether any additional budget resources would be
11 necessary. We are particularly sensitive, of course, to the
12 need for the Federal Government to reduce expenditures generally
13 in order to get down our deficits; and we know we are a very,
14 very tiny piece of that.

15 But we feel we have a particular leadership role to play
16 in that regard, and so we try to be very responsive.

17 Senator Rockefeller. It would still be helpful, Mr.
18 Chairman, if the Ambassador at the proper time would be willing
19 to help on this.

20 Mr. Woods. It would be so as soon as we are able to
21 provide any reasonable analysis, and we would do so.

22 The Chairman. Senator Baucus, did you have an amendment
23 to present this morning?

24 Senator Baucus. In the way you asked the question, I
25 guess the answer to that is yes. I do at this time.

1 (Laughter)

2 The Chairman. I am just trying to move this process along.
3 Senator Baucus. Mr. Chairman, as we all know, sometimes
4 our Government proposes a sanction against a country that
5 practice unfair trade through quotas. We all know that
6 sometimes--in fact, usually--quotas distort the market and
7 have a lot of adverse consequences to them.

8 I personally do not like quotas. I think that generally
9 they are not a good idea. In those instances, though, where
10 the U.S. has imposed quotas--whether they are direct quotas
11 as in the case of shoes or orderly marketing arrangements--the
12 exporting country against whom the quotas are imposed gets a
13 benefit--it is an economic benefit that is called a rent,
14 in economic terms--and the benefit is basically the amount
15 by which the quota decreases the supply of goods compared
16 with the demand.

17 So, the tighter the quota it is fair to say the supply
18 is going to decrease disproportionate to the demand. The
19 result of that is to increase the price.

20 That increased price--the benefit of the increased price
21 goes to the exporter; it goes to the exporting countries.
22 They get the value of that rent, of that premium.

23 So, it is my view that, first, quotas are generally not
24 a good idea; but second, in those instances where we do impose
25 quotas, for whatever reason, that the United States should get

1 the benefit of that premium--that rent--and not the foreign
2 producer and not the foreign country.

3 I, therefore, am suggesting that on a trail basis--on a
4 pilot program basis--we see if we can figure out a way to
5 give the United States that premium rather than the foreign
6 exporter or the foreign country getting that premium.

7 More precisely, I suggest that those next three instances
8 where the President imposes a quota--it would be prospective
9 only--those next three instances, the President on a pilot
10 project basis would set up an option procedure so that the
11 quota's rights are optioned off to U.S. importers.

12 Now, there are several circumstances under which the
13 President would be allowed not to impose that option quota,
14 and that is where imposition of the option would invite
15 substantial retaliation; that is an escape clause; that is an
16 "out" for the President in my amendment. A second, where
17 the administrative costs of the imposition of the option exceed
18 the revenue gain; that, too, would be an out for the President.

19 And finally, another out--another escape clause--would
20 be that if the President determined that signing the option
21 would give a disproportionate or undue market power to one
22 over another.

23 To summarize, quotas are a bad idea; and therefore, if we
24 are going to have a quota--and we will have a quota in the
25 future some time--the U.S. should get the benefits and not the

1 foreign exporter and not the producer. And we should try to
2 experiment to find a way to give that benefit to the U.S.

3 I think it is a very reasonable amendment. I have spent
4 a lot of time working on this and have spoken to a lot of
5 people about it; and various people have come up with some
6 suggestions as to how to make this thing work better. And I
7 think we should give it a try. It is an approach that has a
8 lot of strong backing among a lot of observers in international
9 trade. I suggest we give it a try.

10 The Chairman. I think it is an interesting proposal. I
11 think Fred Bergsten is another one.

12 Senator Baucus. That is right.

13 The Chairman. He has been advocating this. I don't like
14 quotas either, and this may provide us an alternative to them.
15 I think the President somewhat has this authority now, but this
16 could probably bring it a higher profile. As I understand it,
17 it is discretionary.

18 Senator Baucus. It is discretionary in the sense that
19 the amendment provides that the next three instances where
20 the United States imposes a quota, the President is to set
21 up an optional system; but as I said, there are exceptions
22 under which he would not have to impose the option.

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

24 Mr. Lang. Mr. Chairman, it is correct that the 1979
25 Trade Act included authority for the Administration to auction

1 quotas. We have discussed the proposal in the staff group
2 several times. I am not aware of staff who expressed
3 opposition on behalf of their Senators to the proposal, so
4 long as the exceptions that Senator Baucus has described are
5 in the proposal.

6 The Chairman. Are there further questions? Senator
7 Packwood?

8 Senator Packwood. Yes. I can't remember if we touched
9 on this much in hearings. Who is opposed? Who is in favor?
10 What is the lay of the land on this?

11 Mr. Lang. The support for auction quotas, Senator
12 Packwood, comes from those who feel that the benefit of higher
13 prices goes to foreigners under quotas. If you put a quota on,
14 you have fewer items coming into the market; the price of each
15 item is therefore higher, and that additional money goes to
16 foreign purchasers.

17 The arguments against auction quotas are essentially
18 arguments of administerability.

19 Senator Chafee. Arguments of what?

20 Mr. Lang. Administerability.

21 Senator Packwood. You mean there are no industries that
22 are opposed to it?

23 Mr. Lang. Oh, yes. Some domestic retailing industries
24 --the footwear retailers and some others--are opposed to quota
25 auctions on the ground that it would concentrate the sale of

1 merchandise in a few large importers because they would be
2 able to bid up the price of the quotas.

3 And that, I take it, is why Senator Baucus has included
4 in his proposal a provision that the President not use the
5 process if the auction cannot be administered in the manner
6 which will prevent any person from obtaining undue market
7 power or abusing existing market power in U.S. markets through
8 the use of the quota auction. I am inferring that that is
9 the purpose of that exception.

10 The Chairman. Are you finished, Senator Packwood?

11 Senator Packwood. I am curious as to what the
12 Administration thinks.

13 The Chairman. Mr. Woods?

14 Mr. Woods. First of all, let me say that in many respects
15 --as you well point out, the 1979 Act does give the
16 Administration the flexibility to auction quotas; the reason
17 such auctions have not taken place is that it has been viewed
18 to be administratively--to use the words of my friends in
19 the Treasury Department--a nightmare.

20 Beyond the administrative problems associated with quota
21 auction, however--and there are many--what we basically are
22 saying to our trading partners when we go to this is that,
23 first of all, we are going to limit your access to the U.S.
24 market. Second, we are going to make you pay for the privilege
25 of having limited access to the U.S. market; and for you, a

1 foreigner, it is going to be a bit of a crap shoot. The fact
2 is that we will auction quotas, but our GATT obligations under
3 this kind of scheme--under an escape clause scheme--is that
4 our trading partners should receive a share of the U.S. market
5 somehow related to a prior representative period.

6 Under a quota auctioning scheme, there is no way to assure
7 that; and that goes to the relationship--the administrative
8 nightmare aspect of it.

9 The quota auctioning is quite attractive in terms of the
10 U.S. capturing the economic rents which go on our side of
11 the ledger, as it were, rather than on the side of the ledger
12 related to exporters. But on the other hand, there are a lot
13 of practical problems with it in administerability, on the
14 one hand, and on GATT-ability on the other in the matters which
15 I have just described.

16 The Chairman. Senator Bradley, you have been seeking
17 recognition?

18 Senator Bradley. Yes, Mr. Chairman. I think Senator
19 Baucus' idea is intriguing. It is a source of revenue for the
20 Government, in a time of tough budget periods.

21 We now do quotas administratively which basically means
22 deciding somewhat arbitrarily, based upon political
23 considerations, what countries should get what part of a
24 particular market. And as I take Senator Baucus' amendment,
25 he is saying let's just auction that, right to import into

1 our country, which puts a premium on efficiency, which
2 generates revenue for the Federal Government, and which
3 guarantees consumers the lowest possible price.

4 It is, I think, a proposal that we should accept. There
5 are some concerns that I have, though, and I think maybe we
6 could take care of them in report language. The concern of
7 the retailer, for example; maybe we want to say in report
8 language that quota auctions are not intended to force an
9 inequitable arrangement among U.S. retailers or importers.
10 That is not our intention.

11 Our intention is not to have a few suppliers who have
12 access to the lowest possible price country to lock up the
13 whole market, but to have competition among retailers. Just
14 in report language, say that; and then maybe also in report
15 language, we could make sure that we define after to mean not
16 just individual or limited group, but also foreign supplier
17 countries as well as U.S. importers or retailers.

18 And here, I am concerned about the situation where Hong
19 Kong gets into a situation where they are essentially cutting
20 corners and flipping back rebates to importers in order to
21 deal with them or a group of Acion countries get together and
22 achieve the same objective. I think that we could handle that
23 if we simply said in report language the provision exempting
24 from quota auction requirement any auction which would likely
25 give to any actor undue market power.

1 We could clarify "actor" to mean a limited group of
2 countries in addition to a particular retailer or importer.
3 I think those two things could be taken care of in report
4 language, and I think it is worth a try.

5 I must say that the GATT concern is an interesting
6 concern that you would raise because this idea was first
7 proposed to me when we were doing the GATT report, by Jan
8 Toomler, who is probably the guru of all gurus--or the -- when
9 it comes to what is GATT-able and open trading systems.

10 He said this is a facilitating device for an open trading
11 system.

12 Senator Chafee. Mr. Chairman?

13 The Chairman. Senator Chafee?

14 Senator Chafee. Thank you, Mr. Chairman. As I understand
15 what Senator Baucus is doing, he is mandating in the next
16 three quotas that should occur and there are some loopholes;
17 is that correct?

18 Senator Baucus. And there are big ones.

19 Senator Chafee. The only thing that we have had
20 experience with, I think, in this committee on quotas is
21 the automobile quotas that we imposed on Japan, that is, where
22 the full committee has given it much thought.

23 Now, let's say Japan has been exporting two million
24 automobiles into the U.S.; and so, we say you can only send in
25 1,800,000. Now, under the current procedure, somehow Japan

1 --and none of us quite know how that works--says to Toyota,
2 you can send so many and, Honda, you can send so many, and
3 so forth. Under this procedure, as I understand it, we would
4 auction those quotas.

5 Senator Baucus. Would the Senator yield?

6 Senator Chafee. Yes.

7 Senator Baucus. I don't want the Senator to go down the
8 wrong track here. VRAs are not covered.

9 Senator Chafee. I don't know the difference between a
10 VRA and a quota.

11 Senator Baucus. A VRA is an agreed-to restraint, or
12 basically, it is where Japan, in this case, on its own
13 voluntarily restrains as to the amount agreed to, to limit
14 the importation of automobiles.

15 Senator Chafee. All right.

16 Senator Baucus. This covers only quotas where the
17 President under 201 would impose a quota and --

18 Senator Chafee. All right, let's take shoes. That is
19 something that has perhaps been the primary thrust here toward
20 201. All right. So, a quota is imposed on footwear--sneakers.

21 Now, then, the U.S. auctions the quota off. Do we auction
22 it with a certain percentage for each country and the companies
23 within that country can bid? Or do we auction it just blank
24 and not prorate it per country, but just the highest bidder
25 come and get it?

1 Senator Baucus. If I might address that, that is under
2 the amendment up to the Treasury, that is either on a global
3 arrangement if the Treasury so deems or in a country-by-country
4 basis if the Treasury so deems.

5 Senator Chafee. All right. Let's say that they do it
6 proportionally per country. In other words, if a country,
7 say Hong Kong, had 20 percent of the market, then they get
8 20 percent of the reduced quota, then you auction if presumably
9 amongst the companies there. Now, if you don't do it that way,
10 if you do it by come-one, come-all bid, without a certain
11 proportion per country, it seems to me the effects on the
12 countries could be devastating--a loser.

13 If you don't bid and get in there--Hong Kong or whoever
14 you might be--and get your share, it is good night, ladies, I
15 think. Now, let's say you do do it that way--by country
16 proportionally. Then, the companies bid. What happens to our
17 suppliers over here? I have a tie-in with Rebok, and I am
18 buying my shoes; and bang, they don't bid high enough. So, I
19 am out in the cold; is that right?

20 Senator Baucus. Under this proposal, a secondary market
21 development rights would be transferrable among importers or
22 among shoe companies. That is one possibility.

23 Basically, these kinds of uncertainties already exist
24 whenever our quota is imposed, because there is an artificial
25 limitation on the supply; and whether the right to ransom the

1 premiums goes to the exporter or whether they go to the United
2 States is some irrelevant here because there is always going
3 to be uncertainty and confusion, whenever a quota is imposed.

4 The thought here is that, by giving a lot of flexibility
5 to the Treasury, that a lot of these potential problems can
6 be worked out; but let's try it. Don't forget these loopholes;
7 they are big. And if the Treasury determines that the
8 administration costs are just too great, then the quota is
9 not optioned. But I just think that we should get the benefit
10 of the premium and not the other guy, if a quota is imposed;
11 so let's experiment with it and see if it works.

12 The problems you raised earlier apply regardless of whether
13 the quota is auctioned or not auctioned because, when you impose
14 a quota--say it is globally--it is first-come, first-served,
15 in that case, too. All I am saying is that, when there is a
16 quota--and I don't like quotas, but when there is a quota--let's
17 find a way so that the United States gets the benefit of the
18 premium rather than the other country.

19 The fact is that I think if we put this amendment in here,
20 it is going to make it less likely to some agree that a quota
21 is going to be imposed in the first place.

22 The Chairman. Senator Daschle?

23 Senator Chafee. Could I just ask one quick question, Mr.
24 Chairman.

25 The Chairman. Yes. Yes, of course.

1 Senator Chafee. How many total witnesses did we have on
2 trade before this committee?

3 Mr. Lang. I am not really sure, Senator Chafee.

4 Senator Chafee. I mean, was it 100 or was it 10?

5 Mr. Lang. It was more than 10 and less than 100.

6 (Laughter)

7 Senator Chafee. Bracket that a little more closely.

8 Mr. Lang. I would guess it was 35 to 40, something like
9 that.

10 Senator Chafee. I will buy you a dinner if it wasn't 40
11 witnesses.

12 Mr. Lang. Where?

13 Senator Chafee. Here.

14 (Laughter)

15 Mr. Lang. Oh.

16 Senator Chafee. No, better than this restaurant.

17 Mr. Chairman, I am just a little skiddish about plunging
18 into this. Here, we had days of witnesses on every conceivable
19 subject; and now, out of the blue, comes a suggestion. It may
20 be a caulking suggestion; I don't know.

21 Senator Baucus. We had hearings on this, too.

22 The Chairman. Let's let Senator Daschle make some
23 comments here. He has been very patient.

24 Senator Daschle. I am generally supportive of the idea, if
25 only because of Senator Chafee's questions. I don't think we

1 know, and I think that utilizing the amendment as Max has
2 proposed us gives us an opportunity to answer some of these
3 things and will give us a much better appreciation of how
4 effective a tool it is down the road.

5 But I do have a question with regard to the Australian
6 experience. Max, I am sure you are familiar with the history
7 there. Five percent of the bidders control 90 percent of
8 the quotas. So, there has been a tremendous concentration of
9 bids and a very few number of bidders.

10 If that is the case, it does suggest that Senator Chafee's
11 concerns are accurate. How does your amendment differ from
12 the Australian experience?

13 Senator Baucus. First, the amendment is constructed to
14 give the Treasury the right and power to set up a system to
15 prevent that undue concentration.

16 Senator Daschle. Could you elaborate on how he would
17 prevent it?

18 Senator Baucus. He could limit the percentage perhaps or
19 the value of the quota per bidder. That is one way.

20 Senator Daschle. So, let's say there is a billion dollar
21 quota system, and you would divide it out into five \$200
22 million parts? And then each quota would be bid independently?
23 So, we would have in a sense five spheres of competition?

24 Senator Baucus. The Treasury would have to look at the
25 product to see reasonably how many bidders there would be, and

1 then look at the size reasonably, what the various sizes of
2 the American bidders are, and then set up a system that
3 basically represents reality, that is what the situation is
4 in the United States.

5 In fact, Senator Bradley, too, has some amendments in
6 report language that clarifies this to prevent undue
7 concentration of market power. I can't speak for Australia;
8 maybe Australia likes their present system. I only know that,
9 under this amendment, it is designed to give the Treasury
10 the power to set up a system to prevent that from happening.

11 Second, Australia only has six people in its industry;
12 and they want computers, so there is no gigantic administrative
13 cost in Australia. I believe that explains why there are only
14 six because there is such a concentration of economic power.
15 I don't know, but again, that is for them to determine.

16 I can't speak for Australia.

17 Senator Daschle. I just think we have to look at analogous
18 situations and try to find out what works and what doesn't. If
19 that ends up to be the fact here in this country, I doubt very
20 much that quota auctions have a long future.

21 But if we can preclude that in these three individual
22 cases, and try to preclude it either in report language or in
23 legislative history, then I think your amendment has a lot
24 of merit.

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

1 Danforth?

2 Senator Danforth. I just have one question, Mr. Chairman.

3 The Chairman. Yes.

4 Senator Danforth. 201 has been on the books since 1974?

5 Mr. Lang. Oh, no. The original version of the escape
6 clause was put into effect in 1951 and then was subsequently
7 amended several times.

8 Senator Danforth. For how long have quota auctions been
9 an option?

10 Mr. Lang. Since 1979, Senator.

11 Senator Danforth. 1979? There has been an option of
12 using quota auctions?

13 Mr. Lang. Yes, sir.

14 Senator Danforth. And since 1979, how often has relief
15 been granted under Section 201?

16 Mr. Lang. Oh, six or seven times. Never a quota. I
17 don't think any quota relief has been provided.

18 Senator Danforth. The first question is: How many times
19 has relief been granted under Section 201? The second question
20 is: How many times has that relief been in the form of quotas?
21 And the third question is: How many times have quota auctions
22 been effected?

23 Mr. Lang. I think the answers are six or seven, zero,
24 and zero.

25 Mr. Holmer. No, specialty steel.

1 Mr. Lang. For specialty steel. I beg your pardon. Yes,
2 there was one quota case on specialty steel.

3 Senator Danforth. And an auction was not used?

4 Mr. Lang. What then occurred is that we used the quota
5 --the threat of a quota--to negotiate a marketing agreement.

6 Senator Danforth. Let me ask the Administration: Are
7 there some cases when quotas-- Can you think of a hypothetical
8 case in which a quota might be the best remedy, but an auction
9 would be undesirable?

10 Mr. Woods. I think specialty steel is probably is an
11 example of that, when a quota was viewed to be the best remedy
12 --I wasn't here at that point in time, so I can't go into all
13 the reasons why that might have been the case--but then the
14 quota itself was used to negotiate marketing arrangements to
15 make it consistent with the other activities being undertaken
16 by the Administration's steel program.

17 Senator Danforth. Why wouldn't the threat of an auction
18 of quotas have been even more potent?

19 Mr. Woods. You know, it is a question so theoretical that
20 I just don't have an answer to it.

21 Senator Danforth. As a matter of strategy, the threat of
22 at least an auction would be at least as powerful as just the
23 impositions of quotas? Right?

24 Mr. Woods. That is right, except that I think in time
25 our trading partners would want a higher quota. Because they

1 are losing economic rents under a quota auctioning system,
2 then they are going to want greater access in a quota
3 circumstance.

4 Senator Danforth. Can you conceive of some quota cases
5 in which an auction would be more desirable than in other
6 cases? Or do you think that auctioning is generally
7 undesirable?

8 Mr. Woods. No, actually we are not saying that auctions
9 are undesirable per se. What we have said is that they are
10 administratively very, very difficult.

11 Senator Danforth. Let me rephrase the question. Do
12 you desire flexibility to determine that there are some cases
13 when they are appropriate and some cases when they are not
14 appropriate? Or instead, do you take the position that quota
15 auctions are not desirable?

16 Mr. Woods. We feel like we have the flexibility now to
17 make that determination, based on the 1979 Act.

18 Senator Danforth. Do you think that this is something that
19 depends on case-by-case decision-making, ad hoc decisions,
20 tailormade to the specific case and that there are some cases
21 when quota auctions would be desirable and other cases when
22 they would be less desirable?

23 Or do you think that there is a general principle involved
24 that quota auctions are undesirable?

25 Mr. Woods. We don't think there is a general principle

1 involved. The difficulty we have had with quota auctions
2 involve some of the basic difficulties that Senator Chafee
3 has raised in that they are difficult.

4 Senator Danforth. All right. You are still not answering
5 me. Are quota auctions universally unattractive to the
6 Administration?

7 Mr. Woods. No.

8 Senator Danforth. Do you then believe that quota
9 auctions could be desirable under certain circumstances and
10 undesirable under other circumstances?

11 Mr. Woods. That is quite possible.

12 Senator Danforth. Would you like the flexibility to
13 utilize quota auctions on an ad hoc basis?

14 Mr. Woods. We believe we have that flexibility now.

15 Senator Danforth. Would you like the flexibility to
16 use quota auctions on an ad hoc basis?

17 Mr. Woods. Yes, that would be fine.

18 Senator Danforth. Can you anticipate that quota auctions
19 would ever be used by STR?

20 Mr. Woods. One could anticipate that that might be the
21 case. I can't give you an example of a specific circumstance,
22 however.

23 Senator Baucus. Ambassador Woods, would you like
24 flexibility under 301 and Section 201 on an ad hoc basis?

25 Mr. Woods. Are we trading, Senator?

1 (Laughter)

2 Senator Chafee. Mr. Chairman, could I ask a question?

3 The Chairman. Are we prepared to vote on this. We have
4 several issues to take up this morning.

5 Senator Chafee. Two questions. One: When we are talking
6 about revenue that would be raised here, what are the
7 possibilities? I mean, is this significant? Or can you not
8 even guess?

9 Mr. Bolten. Senator Chafee, I should point out that one
10 of the arguments that is raised by the opponents of this kind
11 of proposal is that, if you do the quotas on a country-by-
12 country basis, you may end up with no revenue at all because
13 the exporting country can then simply impose an auction on
14 the export license, recapture all of the quota rents, so that
15 the license to import it--which we would be auctioning here--
16 would be essentially worthless.

17 So, in order to ensure that you would be capturing the
18 quota rents, you would have to make basically a worldwide quota.

19 Senator Chafee. The other question is: How does the
20 consumer fare under this? You auction the sneakers quota,
21 and the highest price sneaker person wins, and then increases
22 the price of sneakers here very substantially. Is that a
23 possibility? You don't have to answer; of course, it is
24 a possibility. I know the answer.

25 Senator Baucus. Would the Senator yield? No. It is the

1 same in both instances. If we impose a quota, there is going
2 to be a higher price to the American consumer. It is very
3 simple. If that quota is auctioned off, that same price will
4 be retained by the American consumer. There is no difference
5 whether the quota is auctioned or not auctioned.

6 The only difference is who gets the benefit.

7 Senator Chafee. No. The highest price manufacturer of
8 sneakers bids higher, and then he has a lock on the market,
9 whatever the quota he bids on.

10 Senator Baucus. Today, the benefit goes to the exporter.
11 I am suggesting the benefit go to the Treasury.

12 The Chairman. Senator Durenberger has been waiting for
13 some time to give his amendment, and I hope we can dispose of
14 this one. If there is not further discussion?

15 Senator Bradley. Mr. Chairman, this is with the report
16 language that I discussed on undue market --

17 The Chairman. Is there objection to the report language?

18 (No response)

19 Senator Heinz. Mr. Chairman, I have one question.

20 The Chairman. All right. Senator Heinz?

21 Senator Heinz. Can American parties bid on these quotas?

22 Senator Baucus. Yes. Absolutely.

23 The Chairman. Senator Packwood?

24 Senator Packwood. Max, I don't understand one thing, and
25 it is the point that Senator Chafee raised at the end. Let's

1 say we are importing one million pairs of sneakers, and we
2 say we are going to put a quota on at 800,000; that is all
3 we are going to let in. And so, that is going to make the
4 price go up.

5 Senator Baucus. That is correct.

6 Senator Packwood. Now, the 800,000, in addition, you are
7 going to sell to somebody the right to bring in the 800,000.
8 Don't they add that to the cost of what they are going to
9 bring in?

10 Senator Baucus. No, they don't.

11 Senator Bradley. I don't know if you want to dispose
12 of this?

13 The Chairman. I would like to if I can. I think the
14 question has been answered.

15 Senator Bradley. All right.

16 The Chairman. Obviously, there is a division here. So,
17 let's go ahead and call the roll.

18 The Clerk. Mr. Matsunaga?

19 The Chairman. Aye by proxy.

20 The Clerk. Mr. Moynihan?

21 (No response)

22 The Clerk. Mr. Baucus?

23 Senator Baucus. Aye.

24 The Clerk. Mr. Boren?

25 (No response)

1 The Clerk. Mr. Bradley?
2 Senator Bradley. Aye.
3 The Clerk. Mr. Mitchell?
4 Senator Mitchell. Aye.
5 The Clerk. Mr. Pryor?
6 Senator Pryor. Aye.
7 The Clerk. Mr. Riegle?
8 Senator Riegle. Aye.
9 The Clerk. Mr. Rockefeller?
10 Senator Rockefeller. Aye.
11 The Clerk. Mr. Daschle?
12 Senator Daschle. Aye.
13 The Clerk. Mr. Packwood?
14 Senator Packwood. No.
15 The Clerk. Mr. Dole?
16 Senator Packwood. No.
17 The Clerk. Mr. Roth?
18 Senator Packwood. No.
19 The Clerk. Mr. Danforth?
20 Senator Danforth. No.
21 The Clerk. Mr. Chafee?
22 Senator Chafee. No.
23 The Clerk. Mr. Heinz?
24 Senator Heinz. No.
25 The Clerk. Mr. Wallop?

1 Senator Danforth. No.

2 The Clerk. Mr. Durenberger?

3 Senator Durenberger. No.

4 The Clerk. Mr. Armstrong?

5 (No response)

6 The Clerk. Mr. Chairman?

7 The Chairman. Aye.

8 The Chairman. Let me withdraw on Mr. Matsunaga's vote
9 because I am not sure the proxy is that definitive. So, Mr.
10 Matsunaga will be recorded as not voting.

11 The Clerk. Seven years, eight nays.

12 The Chairman. The vote is open, as you understand, until
13 5:30 on that. All right.

14 Senator Durenberger. Mr. Chairman?

15 The Chairman. Senator Durenberger?

16 Senator Durenberger. Thank you, Mr. Chairman. I regret
17 that I wasn't here yesterday when Bob Packwood did his
18 amendment on retaliation because I have an amendment which is
19 a scoped-down version of what Senator Packwood proposed by
20 way of limitations on the President's ability to grant import
21 relief. You will recall his arguments for the amendment was
22 that the national economic interests ought to play a role in
23 determining whether the President could or could not deny
24 import relief were largely arguments that related to the
25 consumers in this country and the economy in this country.

1 There is another aspect of the problem that bothers those
2 of us particularly from States in which agriculture is a
3 dominant part of our economy, and that is the role that
4 agriculture has played over the last number of years in this
5 country in trying to strike a balance in our trading relations
6 across the world.

7 So, Mr. Chairman, I am proposing an amendment which would
8 simply read that in all cases brought under Section 201, the
9 President shall have the option of denying import relief if
10 he determines that import relief will be a substantial cause
11 of serious injury to another domestic industry.

12 The problem, as we all know, is the issue of retaliation.
13 Under Section 201, relief granted is not free relief; somebody
14 pays in one way or another. We have paid in the past in higher
15 prices for automobiles and other imported goods. We have also
16 paid a substantial price in terms of the retaliation against
17 American exports.

18 One of the more recent situations we have had involved
19 Canada; and the shakes and shingles case was immediately
20 followed by retaliation against U.S. computers, books, and
21 auto parts. That timber case was immediately followed by the
22 corn case; and so, this is part of the recent history of
23 retaliation.

24 Mr. Chairman, the issue here really is the degree to
25 which we are going to be required to trade off strong

1 competitive, traditional industries in this country against
2 perhaps weaker, though perhaps more traditional, industries;
3 the degree to which we have to trade off the interests of
4 industries that are highly competitive on the world market
5 against industries that, through some fault of their own, are
6 not as competitive.

7 So, my proposal, I think, is relatively straight-forward.
8 If it can be demonstrated that import relief will raise the
9 cost of certain items, for example in the retailing industry,
10 then the President can still grant import relief if he
11 determines that industry is, for example, earning terribly
12 high profits and that action will not seriously injure
13 retailers.

14 By contrast, if the import relief will provoke retaliation
15 as against agriculture products, then the President can consider
16 that the economically depressed state of American agriculture
17 --if that is the case at a given time--will be seriously
18 jeopardized, then he could deny import relief because such
19 relief would further damage that depressed industry.

20 It is a matter, Mr. Chairman, of probably not an easy
21 test to make, but I think it is probably an essential one;
22 and I would recommend that we adopt this amendment.

23 The Chairman. Senator, I understand the concern as to
24 the possible retaliation affecting other industries; but,
25 frankly, if you put that in as a further exception, it seems

1 you invite the very thing you are trying to avoid. I think if
2 that is written out there, you are going to have every one of
3 these countries threatening some retaliation, understanding
4 that that is there in the law.

5 I think you invite it. I think you really put a
6 tremendous loophole there, and that gives me a great deal of
7 concern. I think the President already has a number of options
8 to try to avoid injury to other industries, whether we are
9 talking about an orderly marketing agreement or his being
10 able to give compensation. These things are all available
11 there; and although I share the concern and I am quite prepared
12 to put that concern in the report itself for the President to
13 give major consideration, I would strongly urge that we do not
14 put it in the statute as an exception because I think it
15 brings about the very thing you are trying to avoid.

16 Senator Heinz. Mr. Chairman?

17 The Chairman. Yes, Senator Heinz?

18 Senator Heinz. I would strongly agree with you. I think
19 you are absolutely right. At first, it will clearly ask other
20 countries to start thinking up retaliatory plans; and second,
21 it gives therefore a very broad easing--almost carte blanche--
22 to the Executive to do whatever they want. I should hope the
23 amendment is defeated.

24 Senator Packwood. Mr. Chairman?

25 The Chairman. Senator Packwood?

1 Senator Packwood. I support the amendment. I frankly
2 would have preferred the one I offered the other day, letting
3 the President consider the general national economic good.
4 That was defeated. This is a slight step back from that.

5 I would argue that it is less likely to provoke
6 retaliation. The way we have the bill drawn now, where the
7 President has almost no discretion, cannot weigh the public
8 good; and once the ITC has made a recommendation that an
9 industry is injured, and the President has to impose some
10 relief, that is more likely to get retaliation than at least
11 giving him some additional alternatives where he can weigh
12 an injured industry against another industry. And if by
13 chance he decides the other industry will be more injured and
14 takes no action, there won't be any retaliation.

15 We are inviting retaliation, the way the bill is drawn;
16 but where I feel most disappointed of all is that we are not
17 allowing the President to consider the general economic good
18 of the country. And I think that is going to be a detriment
19 to all of us.

20 Senator Danforth. Mr. Chairman?

21 The Chairman. Senator Danforth?

22 Senator Danforth. Mr. Chairman, I don't agree with
23 Senator Packwood, and I certainly don't agree with his view
24 that this is a step back from what he offered last week. This
25 is a huge step forward. This provides that, if a very small

1 industry is injured through the use of 201 to protect a very
2 large industry, then the President would say, well, I am not
3 going to use 201. For example, if 201 had been used for the
4 shoe industry or if the President was considering a 201 shoe
5 case, he could under the Durenberger amendment say this will
6 cause very serious injury to the Ferragamo Shoe Stores.

7 And I think that this is going to provide a total free
8 hand to future Presidents to say that they are just not going
9 to use 201 because they are always going to find somebody who
10 is going to be hurt. I mean, there is no total gain
11 utilization of 201; this even takes any kind of flexibility
12 that Senator Packwood would have had out.

13 I think also, Mr. Chairman, that the question before us
14 is one of attempting to restore credibility to the 201 process.
15 Right now, there isn't very much credibility in 201. The shoe
16 case proved that. In the shoe case, here was an industry that
17 fought the battle; fought it twice; fought it successfully;
18 and came up empty-handed. And the clear message from the
19 shoe case to any other injured industry was: Why pursue 201
20 remedies? Instead of hiring lawyers and going to the ITC,
21 let's instead hire lobbyists and go to Congress, and put as
22 much political heat as possible on Congress.

23 That is what the textile people have done. So, I think
24 that it is very important for us to restore some degree of
25 regularity to trade remedies so that it is not just a matter

1 of the people with the most muscle hustling around the lobbies
2 of Congress putting pressure on us. I think it is very
3 important to defeat this amendment.

4 The Chairman. Senator Daschle?

5 Senator Daschle. Mr. Chairman, I am sensitive to Senator
6 Durenberger's concern here; but it was my understanding, my
7 impression, that the way the bill is written the President does
8 have quite a bit of discretion in regard to the consideration
9 of serious injury to another industry. Could you, Jeff,
10 elaborate a little more precisely what options--under the
11 bill as it exists today--a President has in this regard?

12 Mr. Lang. Under the provision approved on Friday,
13 Senator Daschle, the President could refuse to provide import
14 relief to a domestic industry that had shown it was seriously
15 injured by imports and gotten a remedy from the ITC if he
16 found that another domestic industry in the United States would
17 be injured if that domestic industry consumed the product made
18 by the industry that the ITC recommended protection for.

19 So, the provision in the amendment approved on Friday is
20 now, in my opinion, the provision being suggested by Senator
21 Durenberger.

22 Senator Daschle. Is that the only provision that could
23 be cited in this bill that the President could utilize in
24 situations concerning injury?

25 Mr. Lang. As the chairman mentioned, the President also

1 has some flexibility about the form of relief he can give.
2 He has to provide relief that is substantially equivalent to
3 the relief recommended by the ITC, but he need not provide it
4 in the same form. He can negotiate an orderly marketing
5 agreement, as Ambassador Woods mentioned the President did a
6 few years ago in the specialty steel case; or he can
7 negotiate compensation with a foreign government by providing
8 them greater access to our market and other sectors.

9 So, he has some options available to him other than simply
10 refusing to give any relief at all.

11 The Chairman. Senator Bradley?

12 Senator Bradley. Mr. Chairman, as I understand it now,
13 if we under 201 impose a quota or an option, we simultaneously,
14 or nearly simultaneously, also offer concessions to the country
15 upon whom we imposed the tariff and quota.

16 Mr. Lang. Usually, Senator Bradley, the Administration
17 tries to provide the relief in a way that exacts no cost in
18 the United States. Many countries are in a position to provide
19 some limitation on their exports without insisting on any
20 compensation at all. In the event a country is not in a
21 position to do that, then under current law the Administration
22 tries to find the lowest cost way out of the problem.

23 Senator Bradley. But the initiation really comes from
24 the Administration. Right?

25 Mr. Lang. Sure.

1 Senator Bradley. It comes from the United States?

2 Mr. Lang. There is a process under the GATT for
3 negotiation of these matters.

4 Senator Bradley. So, you determine independently whether
5 there should be a tariff or a quota, and then you try to
6 figure out how you get out of it, how do you pacify the
7 country. Right?

8 Mr. Lang. Basically, yes.

9 Senator Bradley. Under the suggestion that you would
10 impose a tariff and a quota, but before you would do that,
11 you would have to think about how they might retaliate. That
12 has a tendency to freeze the decision about whether you put
13 the tariff or quota in under 201. Right? Because you have to
14 figure out where you are going to end up before you determine
15 whether there is merit for a tariff and a quota?

16 Senator Packwood. I don't think the President has that
17 discretion under 201 as we have written it, does he?

18 Mr. Lang. Under the --

19 Senator Bradley. Under the amendment that is proposed?

20 Senator Packwood. All right.

21 Senator Bradley. Under the amendment that is proposed,
22 what happens is that you have to think through how they are
23 going to retaliate before you actually do this; whereas, under
24 the bill, you say let's decide whether we want a tariff or
25 quota and then figure a way out of this. It is really a timing

1 question. Do you believe there should be relief and then
2 figure a way out; or do you believe that you have to figure a
3 way out first before you even give any relief? And my sense
4 is that, if you freeze it and try to answer all the questions
5 about retaliation, you end up inviting more demands from other
6 countries, and you don't provide as much relief.

7 Senator Packwood. Could I ask Mr. Lang a question?

8 Senator Bradley. So, I would oppose the amendment.

9 Mr. Lang. Yes, sir?

10 Senator Packwood. As we have drafted it, cases filed
11 before the ITC by some petitioning industry that alleges
12 injury from imports, the ITC can only make a finding as to
13 whether or not there has been import damage. Correct?

14 Mr. Lang. Serious injury, substantially caused by an
15 import.

16 Senator Packwood. All right. And they can't take into
17 consideration the national good or national security or
18 anything else. They just have to make a factual finding as
19 to whether the imports have caused serious injury. So, they
20 make a finding--you can choose textiles, automobiles.

21 Mr. Lang. Yes, sir.

22 Senator Packwood. It then goes to the President, and we
23 have already said that the only Commissioners who can even
24 recommend relief are those who found the injury. It then goes
25 to the President, and the President must impose either the

1 sanctions recommended by the ITC or equivalent sanctions.

2 And the only exception he has to that is national security
3 --with which we all agree--and would--or would, I should say--
4 the action about to be taken seriously injure another domestic
5 industry that consumes the product--consumes it. It is almost
6 like a downstream issue.

7 Bear in mind there is no allegation of unfairness. So,
8 if there has been no unfairly traded product, and if the ITC
9 recommends a quota, and the President has no option but
10 national security which he can't use or a consuming industry
11 which he can't use, it goes into effect; and you are going to
12 get retaliation, and it is going to be retaliation--I will bet
13 you--against agriculture because that is the easiest place to
14 retaliate and it satisfies most of your constituents in the
15 foreign country.

16 But I don't see how under the present bill, once we have
17 started down this road and once the ITC finds injury, you can
18 expect--for a fairly traded product--anything but retaliation.

19 The Chairman. Gentlemen, we have plowed much of this
20 ground before, and we have had a reasonable amount of debate.
21 Are we prepared to move on it?

22 (No response)

23 The Chairman. The vote is on Senator Durenberger's
24 amendment. Will you call the roll, please?

25 The Clerk. Mr. Matsunaga?

1 The Chairman. No by proxy.
2 The Clerk. Mr. Moynihan.
3 The Chairman. No by proxy.
4 The Clerk. Mr. Baucus?
5 Senator Baucus. No.
6 The Clerk. Mr. Boren?
7 (No response)
8 The Clerk. Mr. Bradley?
9 Senator Bradley. No.
10 The Clerk. Mr. Mitchell?
11 The Chairman. No by proxy.
12 The Clerk. Mr. Pryor?
13 Senator Pryor. No.
14 The Clerk. Mr. Reigle?
15 Senator Riegle. No.
16 The Clerk. Mr. Rockefeller?
17 Senator Rockefeller. No.
18 The Clerk. Mr. Daschle?
19 Senator Daschle. No.
20 The Clerk. Mr. Packwood?
21 Senator Packwood. Aye.
22 The Clerk. Mr. Dole?
23 Senator Packwood. Aye.
24 The Clerk. Mr. Roth?
25 Senator Packwood. Aye.

1 The Clerk. Mr. Danforth?

2 Senator Danforth. No.

3 The Clerk. Mr. Chafee?

4 Senator Chafee. Aye.

5 The Clerk. Mr. Heinz?

6 Senator Heinz. No.

7 The Clerk. Mr. Wallop?

8 Senator Packwood. Aye.

9 The Clerk. Mr. Durenberger?

10 Senator Durenberger. Aye.

11 The Clerk. Mr. Armstrong?

12 Senator Armstrong. Aye.

13 The Clerk. Mr. Chairman?

14 The Chairman. No.

15 The Clerk. Seven yeas, twelve nays.

16 The Chairman. Now, gentlemen, I would like to propose at
17 this time an amendment to the negotiating authority. Are we
18 prepared to do that at this time?

19 Mr. Lang. I am aware of no further amendments with regard
20 to Section 201.

21 Senator Bradley. Mr. Chairman, if I could, I would like
22 to offer what is perhaps just a point of clarification.

23 The Chairman. All right. I will withhold the amendment
24 at this point then. Go ahead.

25 Senator Bradley. If the ITC recommends trade adjustment

1 assistance, is that mandatory then?

2 Mr. Lang. Yes. That is in the proposal.

3 Senator Bradley. So, it would be mandatory?

4 Mr. Lang. It is not. I am sorry; I take that back. It
5 is not mandatory.

6 Senator Bradley. Mr. Chairman, I would suggest that, if
7 the ITC recommends trade adjustment assistance, that we make
8 it mandatory.

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

10 Mr. Lang. The proposal in this area--and Senator Bradley
11 has talked about this, and I think also Senator Roth has
12 mentioned this occasionally--is that you eliminate the
13 certification process in trade adjustment assistance where
14 you have made a determination that the industry is seriously
15 injured by increasing imports, the theory being that if the
16 industry is seriously injured, then you don't need to go
17 through the process of determining whether imports contributed
18 importantly to the worker's separation, which is the standard
19 under trade adjustment assistance because it would be
20 self-evident--I guess is the argument--that because the
21 industry is being seriously injured, workers being separated
22 from the industry are being separated because of imports.

23 So, the basic question posed by Senator Bradley's
24 suggestion is that you would cut down certification times in
25 trade adjustment assistance cases. The solution to this

1 problem in 1974 was to authorize the President to speed up the
2 certification process in cases where there had been an
3 affirmative Section 201 determination, but that hasn't worked
4 very well. In fact, the certification process in trade
5 adjustment assistance has at different times--for a year or
6 two at a time here and there--been a very substantial problem.

7 It is less of a problem now because you delay eligibility
8 for trade adjustment assistance until after the exhaustion of
9 unemployment insurance. So, there is a 26 week delay, and
10 normally the department is pretty much able to keep up to
11 speed with those industries.

12 So, I hope that I have correctly represented what you
13 are suggesting, Senator Bradley.

14 Senator Chafee. What is the other side of the argument?

15 Mr. Lang. The other side of the argument, Senator Chafee,
16 has been that the department should make a separate
17 determination of whether imports contributed importantly to
18 the workers' separation because the plants might be separating
19 the workers for all kinds of reason. Even though they are
20 seriously injured, their solution to that problem might not be
21 separation of the workers; it might be transferring them to
22 another facility but not actually firing them or changing them
23 into other parts of their operation that are not covered by
24 the serious injury determination, or something like that.

25 The problem, of course, is that the time it takes to figure

1 that out is the concern expressed by Senators who support this
2 kind of amendment because, if you delay trade adjustment
3 assistance, workers end up not getting a steady cash benefit
4 or qualifying for the training. They get a lump sum payment
5 at some time in the future, and that doesn't promote the
6 adjustment objectives of TAA. Anyway, that is the argument
7 against it, as far as I am aware.

8 The Chairman. Are there further comments on that? Mr.
9 Holmer or Mr. Woods, do you have any comments?

10 Mr. Woods. Our only concern about mandatory TAA would be
11 a budgetary one. I think we have addressed that.

12 The Chairman. Yes. Are there further comments on this
13 issue?

14 (No response)

15 The Chairman. Are you proposing that?

16 Senator Bradley. I propose that we make it mandatory.

17 The Chairman. All right. All in favor of the motion as
18 stated make it known by saying "Aye."

19 (Chorus of ayes)

20 The Chairman. Opposed?

21 (No response)

22 The Chairman. Motion carried. Now, if I may now present
23 my amendment, Senator?

24 Senator Durenberger. Yes. Mr. Chairman?

25 The Chairman. Are you dealing again with 201?

1 Senator Durenberger. Yes, it was suggested report
2 language on 201.

3 The Chairman. All right, Senator, fine.

4 Senator Durenberger. Thank you, Mr. Chairman.

5 I will be very brief. The President, when he grants
6 import relief as we all know, also requires--or the law
7 requires--of the industry involved that they make some
8 positive adjustment or a commitment to make a positive
9 adjustment to the imports. And that is a variety of
10 affirmative steps that industries have to take to make
11 themselves more competitive.

12 The ITC reports to the President every three years on the
13 progress that an industry makes towards being more
14 competitive; and I assume that among the things they take
15 into consideration are modernization of plant and manufacturing
16 techniques and so forth. My suggestion is that we consider
17 incorporating into our report language that the President would
18 also take into consideration an industry's progress in
19 narrowing the relative pay scales between management and labor,
20 the degree to which the industry has paid out in the form of
21 salaries and bonuses to protected executives like the
22 President of Chrysler to whom we are paying an extra \$1,200 to
23 \$1,300 a year for his automobiles, the President of Ford--who
24 is the number eight paid executive in America--for whom we are
25 also paying \$1,200 to \$1,300 per car extra, the degree to

1 which the equities as between industries in these countries
2 and the compensation of those who manage and produce products
3 might be a factor.

4 In agriculture, for example, if you go through the meat
5 packing industry in this country, you will find not only
6 executive compensation is held down, but worker compensation
7 has been marching down pretty steadily from \$14.00 and \$13.00
8 an hour down to some places where it is \$5.50 an hour for
9 somebody who is cutting hogs--a rather dangerous occupation.

10 But I don't see the same sort of thing taking place in
11 some currently protected industries in this country, and I
12 wonder if just an additional factor--nobody is demanding they
13 get rid of their golden parachutes--but somehow or other,
14 when I have to go out and pay that much more for automobiles,
15 I am offended by the kind of compensation that I am paying
16 to the people who run those companies.

17 I know there are very good, legitimate reasons why in
18 a tough competitive market they ought to be well compensated;
19 but I don't know that they then need to be protected from
20 competition as well.

21 The Chairman. I think, Senator, you state the concern
22 of many of us: in instances where we have seen management
23 divorce their own fate from that of their workers, and that
24 is a concern.

25 Senator Bradley. Mr. Chairman, I would support Senator

1 Durenberger's request for report language.

2 Senator Chafee. I am for that, too.

3 The Chairman. All right. If there is no objection, then
4 that tenor of the report will be something that we will try
5 to structure in.

6 Now, if I may at this point, I would like to propose an
7 amendment to the negotiating authority. In the provisions
8 of the Bentsen-Danforth bill on negotiating authority, we
9 based it on some work last summer in trying to resolve what
10 has been a major problem for us in the formulation of American
11 trade policy. And as we worked on it and put ourselves in
12 the position of a negotiator, I began to have some concern
13 that we would really strap him rather tightly and he would
14 have a difficult time carrying out some of the things that
15 we wanted in the way of trading with foreign governments.

16 And we began to look for a better way to be assured that
17 there would be some flexibility and yet that the Administration
18 was really going to be consulting with the Congress.

19 We have seen--since the beginning of the 1980s--world
20 trade in effect go flat, and if it weren't for the great
21 deficit in trade in this country, world trade would actually
22 be down by about five percent. So, our concern is trying to
23 do some things that will open up world trade and expand world
24 trade. We are dealing in a shrinking pie, and we want to see
25 what we can do to reverse that.

1 The biggest gains in trade have been in the past through
2 negotiations; and the bigger the negotiations, the better.

3 The upcoming negotiations are potentially the biggest of
4 all, and therefore, potentially the biggest gains this country
5 has ever seen in trade. We desperately need those kinds of
6 gains. There are some big problems, and we need a tough
7 negotiating position to attack those problems over the next
8 few years. We in the Congress have a special position in
9 those negotiations. We are different from the other
10 democracies in that our Constitution sets forth our
11 responsibility in trade.

12 And every negotiator you see at Geneva remembers the
13 situation of Lyndon Johnson in the late 1960s, working out
14 an antidumping agreement and then going back to the Congress
15 and having the Congress turn it down. What we want to do is
16 strengthen the power of the negotiator by having it understood
17 that there is consultation taking place with the Congress and
18 that we are working together.

19 So, I believe that we must find a way to provide an
20 expedited legislative procedure to the Executive Branch. The
21 fast track doesn't solve the problem that we have today.

22 I think we have seen a breakdown in the Executive
23 legislative consultation, and I don't mean that as any
24 disrespect to Ambassador Yeutter and his associates when I
25 say too often that consultation has been a one-way street.

1 Congress needs to be a partner in it.

2 This is just as much a crippling of our negotiators as
3 a failure to enact the fast track. These negotiators know when
4 the American Government doesn't have its act together.

5 At Punte del Este our negotiators discussed all sorts of
6 issues: standstill, rollback, putting Japan on the agenda of
7 the new round. They were making decisions that could affect
8 the course of our country.

9 The Europeans, the Japanese, the Asians--they understand
10 that Congress has not approved that agenda. Some people assume
11 that if a bill is on a fast track, then there is no way
12 Congress can reject it, and that is just not the case. And if
13 we continue to have that failure in communications, they can
14 find out how false that assumption is.

15 We have only rarely in this Congress used the fast track,
16 and in each instance, it has been exceptional. It would be
17 better to repeal the fast track or not to enact it at all
18 than to get to the end of the line and then defeat a fast
19 track bill because Congress was used and its concerns were
20 not taken into account. And that is what I think we are all
21 trying to avoid if we can.

22 I think all of us on this committee are deeply concerned
23 with that basic problem. I think many--perhaps a majority--are
24 satisfied with what we have in the bill now; but I have been
25 working and Senator Roth has been working, and we have worked

1 together with the staffs of many of the members in trying to
2 get a more complete consensus. In fact, we are trying to find
3 a way where you don't strap the negotiator too tight. He has
4 got to have some negotiating room. And yet we have to have
5 something that will encourage the Administration to consult
6 with this body.

7 Now, we keep the statement of trade policy requirement.
8 We have slimmed down that proposal, and we have given almost
9 unlimited discretion to the Administration to put into it what
10 they want; and we have removed the requirement that the
11 statement be approved by the Congress before you can get the
12 fast track authorization.

13 I know some members had some reservations about that, but
14 I still hope that the Administration would give us a full
15 policy statement so that this committee and the Congress are
16 brought on board in trade right from the start.

17 And once the Administration files a statement with the
18 Congress, then they have access to the fast track. Then, we
19 have done two things. First, we have provided for a reverse
20 fast track, where this Congress can as an exercise of its
21 own rules revoke the fast track by passing a joint resolution
22 in each House if the Administration has failed or refused to
23 consult adequately. And then second, we provide a mid-term
24 review of the negotiations in 1991, at which point either House
25 can prevent the extension of the fast track for the full term

1 of the negotiating authority, which is through January 3, 1994.

2 So, what would happen is this. If at any time while the
3 fast track is in effect this committee or the House Ways and
4 Means Committee felt the Administration was not adequately
5 consulting with the Congress, we could report out a resolution
6 revoking the fast track.

7 The form of the resolution would be set out in the law,
8 and only that form of resolution would be effective. Either
9 committee could report such a resolution at any time.

10 Now, once the resolution was reported and on its way,
11 the fast track in the House or the Senate, as the case might
12 be, it could be amended or delayed. There would be an up or
13 down vote. The resolutions would be effective without
14 Presidential signature.

15 Now, the two Houses--the House and the Senate--would have
16 to pass these resolutions within 60 days of each other; and
17 one of the reasons is that, in doing it in this way, one of
18 the bodies cannot force it on the other body.

19 I think all we would have to do, frankly, I don't think
20 you would ever have to use it. I think all you would have to
21 do is start hearings here to consider it, and I think the
22 Administration would be right there consulting you. I think
23 it has that kind of influence, but it also gives that kind of
24 flexibility to the Administration as they are trying to
25 negotiate.

1 Now, the second part of that proposal works like this.
2 In January of 1991, the new Administration would give us a
3 report on their progress, and then the fast track would
4 automatically be extended from January 3, 1992 to January 3,
5 1994. That is more or less a progress report; and that would
6 be the case, unless either the House or the Senate disapproved
7 the extension by July 1, 1991.

8 The basis of that is what kind of progress is being made.
9 And I will tell you what else it is. It is a check on the
10 foreign negotiators, as much as it is on the Executive Branch.

11 We are saying that, if the negotiation isn't accomplishing
12 anything by 1991, we just might revoke the fast track. Now,
13 that is one house action.

14 In the House bill, which some members have said they
15 supported, is a mid-term review, and it is one committee
16 disapproval, either Ways and Means or Finance can disapprove
17 under their proposal. However, I think we would have a hard
18 time selling that authority in the Senate.

19 What we have here is something that allows us to tighten
20 the reins on the Administration at any time they are not
21 consulting, and at the mid-point in the negotiation, it is
22 a little easier to tighten the reins if the negotiation is
23 not making progress.

24 Senator Roth has spent a great deal of time working on
25 this and helping hone this and work out some of the differences.

1 Would you like to comment at this time, Senator?

2 Senator Roth. Thank you, Mr. Chairman. I am pleased, as
3 you well know, to cosponsor the chairman's amendment to S.
4 490, and I must say that I agree very strongly that there
5 needs to be a stronger role for Congress.

6 I would also say that I think it is critically important
7 that the message goes out loud and clear to the other
8 negotiating partners that we expect real progress, or the
9 negotiations are in trouble. And I think that is what this
10 amendment does; it gives a loud, clear message both to the
11 Executive Branch that we expect to play a stronger role in
12 the Congress, but it also gives the same message to our trading
13 partners that we expect progress to be made on their part
14 as well.

15 I have been proposing an amendment to address the concerns
16 of the chairman and other members of the committee on the
17 consultation issue; but I wanted those that would also move
18 forward to negotiation. For that reason, I propose that we
19 provide several years of new fast track negotiating authority
20 for both tariff and nontariff issues with the passage of this
21 bill. Prior to the expiration of this authority, I suggested
22 that very rigorous requirements be placed on the U.S. Trade
23 Representative. At that time, on nontariff issues, the USTR
24 would be required to certify that tangible progress has been
25 achieved on the negotiation objectives for the Uruguay Round

1 identified in S. 490. In other words, tangible progress must
2 have been made on such matters as negotiations. I think that
3 Lloyd and I have been to a number of meetings with foreign
4 representatives, but I think a loud, clear message had to be
5 received that we expect some real progress in such areas as
6 agriculture. We want to see progress on the dispute
7 settlement, interim agreements on safeguards, and so on.

8 Now, on tariffs, the USTR would have to demonstrate
9 progress towards parity with our trading partners on the
10 percentage of tariffs found in GATT. Let me explain what I
11 mean by that.

12 When countries bind a particular tariff rate for a product
13 in the GATT, that means that country commits to maintaining
14 that rate at a level not higher than the bound rate. If a
15 duty should be raised, the country then owes compensation to
16 its trading partners. Now, right now, large portions of the
17 tariff schedules of some countries--frankly, including many
18 of the NICs, the newly industrialized countries--are not bound
19 under GATT.

20 So, before we can start negotiating reductions in tariff
21 levels, we must get more tariff bounds. Based on the results
22 of the negotiations certified by USTR, at this juncture under
23 my amendment, tariff and nontariff fast track authorities
24 would be extended for an additional two years, unless a
25 resolution of disapproval is passed by either the House or the

1 Senate. Thus, I propose a shorter maximum negotiating
2 authority for multilateral agreements than the 10 years of
3 negotiating authority in S. 490.

4 Under this approach, continued Congressional support for
5 multilateral trade negotiations would be based on action and
6 not words. We would be voting our results, better than
7 promises on trade policy strategies. We would grant fast
8 track authority now for several years, without the
9 preconditions in S. 490; yet on the other hand, we would
10 subject our negotiators to a more rigorous result-oriented
11 test if they want a further extension of authority.

12 The shorter time limit on negotiating authority would
13 enhance the prospects for early results in the new round.
14 Now, in addition, I suggested that we provide a somewhat
15 longer extension of authority for bilateral and pluralateral
16 agreements than multilateral agreements. I think that this
17 would put heavy pressure on our trading partners to make the
18 multilateral trading system work.

19 I am very pleased that the chairman has seen fit to
20 largely incorporate my proposals into his concensus amendments.
21 I believe these changes in the bill would immediately facilitate
22 the Uruguay Round of negotiations by increasing other
23 governments' confidence in the serious commitment of the U.S.
24 Government to these negotiations and would make it more likely
25 for the U.S. Government to reach an early harvest agreement

1 in such areas as agriculture. While this result-oriented
2 approach will give more weight to the negotiating objectives
3 of the bill, I am sure many members want to focus on them; and
4 I recognize that the chairman and many members of the committee
5 also want to assure a broadened accountability of the Executive
6 Branch to the Congress on trade policy.

7 Mr. Chairman, your concept on the reverse fast track
8 addresses this concern. As you know, Mr. Chairman, there is
9 very broad support in the business community for granting fast
10 authority for trade negotiations now. Our farmers also have a
11 lot to gain if we can put pressure on to move up the date to
12 sign a fair trade agreement for fair trade in agriculture.

13 I am very glad that we have been able to reach an
14 agreement that I think puts us in the best possible negotiating
15 position, yet at the same time, each member is concerned about
16 Congressional check on trade policy negotiations.

17 The Chairman. Thank you, Senator Roth. Senator Packwood?

18 Senator Packwood. I think, by and large, the chairman and
19 Senator Roth have crafted a reasonably good proposal and one
20 that I can support. Nothing is everything that I would always
21 want, but I think you have done a very good job, considering
22 the different factors involved; and we ought to adopt it.

23 Senator Daschle. Mr. Chairman?

24 The Chairman. Yes, Senator Daschle?

25 Senator Daschle. I just have one question that I think

1 has already been answered informally, but I think the
2 legislative history is important and that it be addressed,
3 at least momentarily in consideration of this amendment.

4 My concern was the applicability of this language to
5 the constitutionality question; and as I understand it, staff
6 has already considered that. We have received some indication
7 that, from a constitutionality point of view, this is drafted
8 in such a way that it does not incorporate any concern for
9 legislative detail. Jeff, could you respond to that?

10 Mr. Lang. Yes, Senator. We have consulted with both
11 the Parliamentarian and the American Law Division of the
12 Congressional Research Service. We are assured by both that
13 the procedure is entirely constitutional for the reason that
14 it only is a change in the rules of the two bodies. So, we
15 do have that assurance.

16 Senator Daschle. I think it is a much better proposal
17 and certainly far less cumbersome; and like Senator Packwood,
18 I support it.

19 Senator Chafee. Mr. Chairman?

20 The Chairman. Yes, Senator Chafee?

21 Senator Chafee. Mr. Chairman, I would be curious as to
22 what the Administration thinks of this.

23 Mr. Woods. Senator, we obviously believe that this is
24 --or maybe not so obviously--an improvement on the original
25 language of S. 490. We continue to be concerned about the

1 lack of tariff proclamation authority, which we believe will
2 make tariff negotiations more difficult.

3 I would, however, like to compliment the Senators on the
4 way they have handled the trade policy statement and the
5 basis upon which they are using the extension of the fast
6 track authority on nontariff arrangements. We would hope that,
7 by September 1990, we would be completed with the Uruguay
8 Round trade negotiations. That was a commitment made by
9 the trade ministers at Punte del Este when they launched those
10 negotiations. And certainly looking at that issue in the
11 latter part of 1990 for extension in 1991 is appropriate.

12 Finally, the only other remarks I would make about that
13 would be to refer to something I have referred to previously,
14 which is the consultation provisions in the Administration's
15 bill. In our consultation provision, we would be consulting
16 with the Congress not only about negotiations, but about the
17 development of trade policy more generally, the establishment
18 of priorities for our trade agenda, and the implementation of
19 trade policy.

20 Ambassador Yeutter particularly feels that a very close
21 relationship between the Congress--this committee specifically
22 and the Ways and Means Committee--and the U.S. Trade
23 Representative is critical to successful trade negotiations.
24 This is a point that Senator Bentsen made, I thought, quite
25 eloquently in his remarks earlier and a very important one.

1 The fact is that we live in a very sophisticated world
2 today. Sitting behind me here are a number of people who
3 represent an infinite number of foreign governments. They
4 have been here every day of these hearings, and they will
5 poll weaknesses in U.S. negotiating positions among agencies
6 and between the Executive and Legislative Branches.

7 And unless we have a solid, cohesive negotiating position
8 that comes about as a result of those consultations, we will
9 not be effective in trade negotiations. And I hope that people
10 have learned that; and Ambassador Yeutter, I know, feels very
11 strongly that that is the case.

12 Finally, I would say with regard to the revocation
13 provision, I--like Senator Bentsen--do not believe such
14 provisions would ever be invoked because I think that the
15 consultation would be close ones.

16 In the proposals, however, we do require that those
17 consultations take place no less than four times a year. It
18 would seem to me that maybe you might want to consider whether
19 or not you want to have some standard in terms of the frequency
20 of those formal consultations between the committee and the
21 U.S. Trade Representative.

22 The Chairman. If I might comment on that, I don't believe
23 that having a set number is frankly the way to do it. I think
24 the pace could be quickening in the negotiations, and there
25 would be times when we would want more frequent consultation

1 taking place; and other times you might have a drought of
2 them. But I do recall quite vividly how the pace of
3 consultation increased once we virtually deadlocked on the
4 fast track for Canada and how we got the attention of the
5 Administration very quickly here.

6 I really think it is important that we have a hammer,
7 that we have a sanction; and having that, frankly, I don't
8 think we will ever have to use it, but I think it ensures
9 --whether it is this Administration or the next Administration
10 coming along--that we will be a part of the process and that
11 we will know what is going on.

12 And I think that flexibility in giving more room for
13 judgment is an improvement in the piece of legislation, and
14 I hope that the committee will support it.

15 Senator Heinz. Mr. Chairman?

16 The Chairman. Senator Heinz has been seeking recognition.

17 Senator Heinz. Mr. Chairman, as you know I was concerned
18 about the original provision in S. 490 that it might force us
19 to vote on the quality of a trade policy statement; and if
20 the quality wasn't up to what we thought it ought to be, it
21 could force us at the same time to reject fast track authority.

22 I think the chairman's proposal and Senator Roth's
23 proposal is a very significant improvement; and it does, as
24 you pointed out, give the Administration a good incentive and
25 a responsible one to say in close consultation with the Ways

1 and Means and the Finance Committees and the Congress
2 generally. I think it does so in a way that, nonetheless,
3 maintains the maximum amount of continuity and commitment to
4 the fast track process that our trade negotiators say our
5 allies are looking for in these negotiations.

6 So, it seems to me that it does as good a job as I think
7 anyone is going to do about keeping us well into the loop and
8 at the same time giving a relatively good and dependable
9 mandate to our negotiators. So, I commend the chairman and
10 Senator Roth for their proposal.

11 The Chairman. Thank you, Senator. Senator Danforth?

12 Senator Danforth. Mr. Chairman, I think this is a very
13 good work product, and I am delighted that you and Senator Roth
14 and others have been able to work this out. I remember well
15 the flare-up that occurred in this committee just a little
16 over a year ago relating to Canada and fast track authority.

17 And I remember, Mr. Chairman, how you characterized that
18 situation when you said that Congress had been "stiffed"
19 by the Administration--your expression.

20 I think what you have done--you and Senator Roth--in this
21 proposal is to provide a system where Congress will not be
22 stiffed and where the kind of resentments that boiled over a
23 year ago last month is unlikely to be repeated in the future.

24 So, I really think that this is going to go a long way
25 towards creating the kind of cohesiveness between the

1 Administration and the Congress that Ambassador Woods just
2 spoke about.

3 The Chairman. Thank you. Senator Chafee?

4 Senator Chafee. Mr. Chairman, as you recall when we
5 started out on this, many of us including myself were deeply
6 disturbed over the contents of the statements and the
7 specificity--the detail --

8 (Laughter)

9 Senator Chafee. That had to be in that statement. So,
10 I think what you and Senator Roth have done here is a big
11 step forward, and I think it is good. I want to commend you
12 for it. I always get nervous about this withdrawing provision
13 that you have here, but we have just got to assume that it
14 is not going to be used; and I am talking about your (d) on
15 page 2, which is not tied to any date, as I understand it.
16 It can be withdrawn at any time.

17 The Chairman. That is correct.

18 Senator Chafee. And that makes me a little bit nervous,
19 but let's just hope that this committee and the Ways and Means
20 Committee will act responsibly and that in the future we will
21 be able to have this consultation that all of us seek and that
22 things will work out so that we can keep this key negotiating
23 authority. Without it, every responsible witness has said
24 that--without the fast track procedures--we are not going to
25 have any negotiations. So, I think this is a big step forward,

1 and I want to comment you and Senator Roth.

2 The Chairman. Thank you. Senator Bradley?

3 Senator Bradley. Mr. Chairman, if I could, I would like
4 to just clarify what is in the proposal. As I understand it,
5 Mr. Lang, the revocation authority from now until the time
6 the negotiating authority expires in 1994 can be revoked
7 by two Houses acting within 60 days of each other?

8 Mr. Lang. Yes, sir.

9 Senator Bradley. The only grounds for revocation is
10 insufficient consultation?

11 Mr. Lang. Yes, sir.

12 Senator Bradley. There is, in addition, a single House
13 revocation from the period of time between the President's
14 submission of his progress report and July 1991. Is that
15 correct?

16 The Chairman. No.

17 Mr. Lang. Actually, it is just a refusal to allow the
18 extension of the fast track. I guess maybe it is a semantic
19 difference; but the way Senator Roth had worked it out and
20 the way the House bill works, for example, is that the fast
21 track is available through a certain period of time and then
22 is extended unless one House or the other objects to the
23 extension.

24 Senator Bradley. What is the period of time during which
25 one House or the other can object to the extension?

1 Mr. Lang. From January 1, 1991 to July 1, 1991.

2 Senator Bradley. All right. So, the one House veto
3 essentially is only available in that six-month period?

4 Mr. Lang. Yes.

5 Senator Bradley. All right. Now, the Administration
6 thinks that this is acceptable?

7 Mr. Woods. As I should make clear, we would prefer the
8 language which is contained in H.R. 3 or the language which
9 is contained in the Administration's proposal, but this is
10 a substantial improvement on the language which was previously
11 in S. 490.

12 Senator Bradley. So, you find no problem negotiating
13 under this provision?

14 Mr. Woods. That is correct.

15 Senator Bradley. Pardon?

16 Mr. Woods. That is correct.

17 Senator Bradley. And you support it?

18 (Laughter)

19 Mr. Woods. We support this compared to --

20 (Laughter)

21 Senator Bradley. Thank you.

22 The Chairman. Are there further comments?

23 (No response)

24 The Chairman. Call the roll, please. The motion is
25 before you.

1 The Clerk. Mr. Matsunaga?
2 Senator Matsunaga. Aye.
3 The Clerk. Mr. Moynihan?
4 The Chairman. Aye by proxy.
5 The Clerk. Mr. Baucus?
6 The Chairman. Aye by proxy.
7 The Clerk. Mr. Boren?
8 (No response)
9 The Clerk. Mr. Bradley?
10 Senator Bradley. Aye.
11 The Clerk. Mr. Mitchell?
12 The Chairman. Aye by proxy.
13 The Clerk. Mr. Pryor?
14 Senator Pryor. Aye.
15 The Clerk. Mr. Riegle?
16 Senator Riegle. Aye.
17 The Clerk. Mr. Rockefeller?
18 Senator Rockefeller. Aye.
19 The Clerk. Mr. Daschle?
20 Senator Daschle. Aye.
21 The Clerk. Mr. Packwood?
22 Senator Packwood. Aye.
23 The Clerk. Mr. Dole?
24 Senator Packwood. Aye.
25 The Clerk. Mr. Roth?

1 Senator Roth. Aye.

2 The Clerk. Mr. Danforth?

3 Senator Danforth. Aye.

4 The Clerk. Mr. Chafee?

5 Senator Chafee. Aye.

6 The Clerk. Mr. Heinz?

7 Senator Heinz. Aye.

8 The Clerk. Mr. Wallop?

9 (No response)

10 The Clerk. Mr. Durenberger?

11 Senator Packwood. Aye.

12 The Clerk. Mr. Armstrong?

13 Senator Armstrong. Aye.

14 The Clerk. Mr. Chairman?

15 The Chairman. The Chairman votes aye and Mr. Baucus votes
16 aye by proxy.

17 The Chairman. Thank you. That is a major step forward,
18 and I thank all the membership for their participation and
19 support.

20 The Clerk. Eighteen yeas.

21 The Chairman. Are there other amendments to be brought
22 up at this time?

23 Senator Danforth. Mr. Chairman?

24 The Chairman. Yes, Senator Danforth?

25 Senator Danforth. I have an amendment that I will not

1 bring up at this time. It is to this section of the bill. I
2 am not prepared to bring it up at this time for the reason that
3 I haven't had the opportunity to run it by you yet or to run
4 it by Mr. Lang. I think it is noncontroversial. It relates
5 to the role of the ITC in tariff reductions for import
6 sensitive industries.

7 It would direct the ITC to pay particular attention to
8 import-sensitive industries and to advise the President of
9 the appropriateness of the proposed modifications in the
10 tariff treatment. It would also direct the President to pay
11 close attention to the ITC's advice with respect to import
12 sensitive or potentially import sensitive products.

13 It has no mandatory effect. It is simply oratory, but
14 I have not had the opportunity to run it by Mr. Lang or you.
15 So, I would be happy to withhold it or offer it, if nobody
16 had any objection.

17 The Chairman. Mr. Lang, have you had a chance to review
18 this?

19 Mr. Lang. Yes, Mr. Chairman. Senator Danforth's staff
20 showed us the language earlier this morning. I don't have it
21 right before me, but under current law, which would be
22 extended under the Danforth-Bentsen bill, before the
23 Administration can table offers on tariff reductions, they
24 are required to request an investigation by the International
25 Trade Commission into the impact those offers would have if

1 they were put into effect on domestic industries.

2 This amendment clarifies that when the Commission is taking
3 note of any particular product or sector, it is to indicate
4 that that product or sector is import sensitive and that a
5 tariff cut could injure the domestic industry. It makes
6 that kind of requirement explicit, and then it requires the
7 President to take into account that advice.

8 My experience with the 1974 to 1979 process is that that
9 was what the committee intended when it put the requirement
10 for the ITC investigation into the law in 1974. I don't know
11 if the Administration has seen this, but I would doubt the
12 Administration has any objection.

13 The Chairman. I wonder, Mr. Woods, if you would speak
14 to the point?

15 Mr. Woods. No objection.

16 The Chairman. Are there further questions in the
17 committee about the amendment?

18 (No response)

19 The Chairman. Does the Senator propose the amendment?

20 Senator Danforth. I will propose the amendment.

21 The Chairman. All right.

22 Senator Danforth. I do propose the amendment.

23 (Laughter)

24 The Chairman. All in favor of the motion as stated make
25 it known by saying "Aye."

1 (Chorus of ayes)

2 The Chairman. Opposed?

3 (No response)

4 The Chairman. The motion is carried.

5 Senator Packwood. Mr. Chairman, could I ask the clerk
6 to record Senator Wallop as "Aye" on your amendment?

7 The Chairman. Yes, of course. Without objection, that
8 will be done.

9 Now, are there other amendments to be offered at this
10 time?

11 (No response)

12 The Chairman. If not, we will go into Executive Session
13 at 2:30 in the back room here, and we will be discussing
14 dumping and subsidies. And one of the reasons that we will
15 do some discussion and consideration of it, but not voting
16 in that session, is the very point Mr. Woods was making earlier
17 insofar as these proceedings are under the attention of the
18 representatives of a number of foreign governments.

19 We have a number of suits existing now in dumping cases.
20 Many of them are against U.S. companies, and we want to review
21 some of the matters in that executive session before we finally
22 decide how we want to proceed.

23 Are there any other questions?

24 (No response)

25 The Chairman. With that remarkable progress that we have

1 made, I thank you very much. We will stand in recess until
2 2:30 p.m. in executive session in the back room./

3 (Whereupon, at 11:26 a.m., the meeting was recessed, to
4 be reconvened this same day, May 5, 1987, at 2:30 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing proceedings of an Executive Session of the Committee on Finance, held on May 5, 1987, were held as appears herein and that this is the original transcript thereof.

William J. Moffitt
WILLIAM J. MOFFITT
Official Court Reporter

My Commission expires April 14, 1989.

SUMMARY OF BAUCUS AUCTION QUOTA PROPOSAL

This amendment would establish a pilot program of auction quotas, to be imposed in the next three cases in which the President imposes quotas under Section 201. Under the amendment, the President would be required to auction any quotas imposed in these cases, unless he determined that 1) the auctioning of the quota itself would cause substantial foreign retaliation, 2) the costs of administering the auction would outweigh the revenues gained, or 3) the auction could not be administered without giving one competitor undue market power. The proposal, of course, does not advocate quotas. It merely sets the terms under which quotas should be administered, if the President decides to impose them.

Auction quotas are intended to deny foreign manufacturers many of the benefits of U.S. quotas. Quotas by definition limit the supply of foreign goods shipped to the U.S. Under most current quota systems, the foreign country is permitted to sell the right to export foreign goods to the U.S., a right that has value in itself because the demand to export is greater than the supply of exports permitted by the quota. The foreign country currently sells this right, called the "quota right" to its exporters, then retains the funds, called the "quota premium" or distributes it to the producers in the quota-restricted industry for reinvestment. Because the foreign country gets the quota premium, U.S. quotas often assist the foreign industry more than the U.S. industry.

Auction quotas are designed to ensure that the U.S. retains the quota premiums. Under auction quotas, the U.S. would auction quota licenses permitting exporters to export a certain amount of goods to the U.S. The revenues from the auction would accrue to the U.S. Government.

Auction quotas have other benefits as well. Under the amendment, the revenues would then be committed to funding a stronger adjustment assistance program for the quota-protected industry. The auction quota therefore would help the industry adjust, thereby helping to ensure that additional protection would not be needed in the future.

In addition, auction quotas make the costs of quotas more easily visible. Whereas the costs of a traditional quota are disguised in the form of higher consumer prices, auction quotas quickly reveal the extent of the quota premium that consumers are forced to pay. Auction quotas permit the U.S. to more accurately assess whether quotas are worth the cost.

AMENDMENT OF SENATOR DAVE DURENBERGER

IN ALL CASES BROUGHT UNDER SECTION 201, THE PRESIDENT SHALL HAVE THE OPTION OF DENYING IMPORT RELIEF IF HE DETERMINES THAT IMPORT RELIEF WILL BE A SUBSTANTIAL CAUSE OF SERIOUS INJURY TO ANOTHER DOMESTIC INDUSTRY.

SPECIFICATIONS

FOR AMENDMENTS TO NEGOTIATING AUTHORITY

Negotiating Authority.-- *Amend* S. 490 to provide negotiating authority through January 3, 1994 instead of 10 years from the date of enactment (spreadsheet page 1).

The "fast track".--No change in S. 490, except as follows:

A. Initiation of "fast track".--*Delete* the requirement in S. 490 for Congressional approval of a Statement of Trade Policy as the condition for providing "fast track" legislative procedure after January 3, 1988 (when it expires under current law) and *substitute* a provision extending "fast track" beginning at any time after January 3, 1988 the Administration submits a Statement of Trade Policy and continuing through January 3, 1992 (spreadsheet page 14).

B. Content of Statement of Trade Policy.--*Delete* requirements in S. 490 for contents of Statement and *substitute* a requirement that the Statement set forth Administration trade policy including but not limited to policies toward sectors impacted by imports and sectors with substantial export potential (spreadsheet page 15).

C. Midpoint reporting.--*Add* a new provision requiring the President and the Advisory Committee on Trade Negotiations to submit to Congress not later than January 3, 1991 a report on whether sufficient progress is being made in the the Uruguay Round and other negotiations, including bilateral negotiations, describing --

1. **Agreements.**--Any agreements finalized in the Uruguay round or in other negotiations with the anticipated timetable for submitting those agreements to Congress for approval and (with respect to nontariff agreements) the President's certification that enough progress had been achieved to make it worth continuing the effort and (with respect to tariff matters) that progress had been made; and

2. **Progress.**--Progress made in achieving objectives set out in this Act as well as those objectives not likely to be addressed in trade agreements and new objectives the United States should adopt for trade negotiations, and the reasons for each and the alternatives the President intends to pursue, if any (the reports and the debate on them may be classified if necessary)(Report language: "alternatives" should include an evaluation of what alternatives are available through bilateral negotiations);

D. Extension of "fast track".--*Add* a new provision extending the "fast track" from January 3, 1992 to January 3, 1994 if neither the Senate nor the House passes a resolution of

disapproval by July 1, 1991. To be effective, such a resolution must be reported favorably by the Senate Finance Committee in the Senate or the Ways & Means Committee in the House before May 15, 1991. The standard for deciding whether to report such a resolution is whether sufficient tangible progress has been made in international trade negotiations to justify extension of the "fast track". Only resolutions reported in the form set out in the bill would be effective to avoid extension of the "fast track."

D. Reverse "fast track".--*Add* a new provision withdrawing "fast track" procedures in the event the House of Representatives passes a House resolution and the Senate passes a Senate resolution of disapproval. Both the Ways & Means Committee and the Finance Committee would be privileged to report a resolution of their respective House at any time "fast track" is in effect on the ground that the Administration had failed or refused to consult regularly with Congress on trade policy generally (not just the Uruguay Round) in accordance with the procedures and purposes of this Act. The resolutions would be effective to withdraw the "fast track" only if reported in exactly the form set out in the bill and only if the two resolutions passed within 60 days of each other. Once reported, each resolution would itself be on a fast track in each House -- that is, it would be a privileged matter and it could not be amended or delayed.

Consultation requirements

A. *Add* a requirement for the Advisory Committee on Trade Negotiations to consult directly with Congress at regular intervals during negotiations authorized by this Act.

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DANFORTH AMENDMENT ON IMPORT-SENSITIVE PRODUCTS

Amendment to Section 131 of the Trade Act of 1974 (which provides for ITC advice to the President regarding articles which may be considered for modification of tariff treatment):

"In its advice to the President, the Commission shall make particular note of any product or sector where information has been received from public hearings or as a result of the Commission's own investigations which would indicate that a given product or sector is import-sensitive or potentially import-sensitive and that a tariff cut could injure the domestic industry."

Where appropriate, Chapter 3 of the Trade Act of 1974 ("Hearings and Advice Concerning Negotiations") should be modified to include the following:

"The President shall take into account any information obtained from the Commission or from the private sector advisory committees or through public hearings with respect to import-sensitive and potentially import-sensitive products in deciding what type of modifications in tariff treatment, if any, would be appropriate."