

ORIGINAL

1 EXECUTIVE COMMITTEE MEETING

2 WEDNESDAY, OCTOBER 20, 1993

3 U.S. Senate,

4 Committee on Finance,

5 Washington, DC.

Gilmour

101 pp.

6 The meeting was convened, pursuant to notice, at
7 10:06 a.m., Hon. Daniel P. Moynihan (Chairman of the
8 committee) presiding.

9 Also present: Senators Baucus, Boren, Bradley,
10 Mitchell, Pryor, Riegle, Rockefeller, Daschle, Breaux,
11 Packwood, Roth, Danforth, Chafee, Grassley, Hatch and
12 Wallop.

13 Also present: Lawrence O'Donnell, Jr., Staff
14 Director; Edmund Mihalski, Chief of Staff, Minority.

15 Also present: Rufus Yerxa, Deputy U.S. Trade
16 Representative; Ira Shapiro, Esq., General Counsel, U.S.
17 Trade Representative; Dr. Larry Katz, Chief Economist,
18 U.S. Department of Labor.

19 Also present: Marcia Miller, Majority Chief
20 International Trade Counsel; Eric Biel, Majority Trade
21 Counsel; Debbie Lamb, Majority Trade Counsel; and Brad
22 Figel, Minority International Trade Counsel.

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1 The Chairman. A very good morning to our guests and
2 our very able staff, who are going to take us through
3 the actual equivalent for us of a mark-up of the NAFTA
4 legislation.

5 In this case, we're going through that shadow
6 program whereby we agree on a measure which we will take
7 to conference with the House Committee on Ways and Means
8 and, thereafter, having reached agreement, that tax will
9 be sent to the administration, which will, in turn, send
10 it back to us, where we will go through the formal
11 consideration.

12 There was an item on the agenda concerning the
13 Customs Service, and questions raised in the last
14 meeting. We have suggested to Commissioner Weise that
15 since the classified documents that we will need to see
16 arrived only late yesterday, and Senator Packwood and I
17 have not been able to see them--any members of the body
18 who wants to, may do--we will take that up next week.

19 The Commissioner has been very generous to stay with
20 us, however, because we may be looking to Customs for
21 part of the financing of this measure, which remains
22 open at this point for the record.

23 Those who do not know--and there will not be many--
24 the House Committee on Ways and Means did not conclude
25 anything with respect to the financing measures, and

1 they are being taken up this morning with Chairman
2 Rostenkowski and the Director of the Office of
3 Management and Budget, Mr. Panetta. We understand Mr.
4 Panetta may look in on us later in the morning.

5 So, true to the agenda, sir, if you have any
6 thoughts on the subject.

7 Senator Packwood. We have got a morning full. Let
8 us get to it.

9 The Chairman. We do have a morning full of work.
10 Let us get at it.

11 Item Number 1 is considerations of staff
12 recommendations, and we will just proceed with Ms.
13 Miller.

14 All other persons, and Mr. Figel, we expect you to
15 join in when you think it appropriate.

16 Ambassador Yerxa, forgive me. We welcome you to the
17 committee once again, and Chief Counsel Shapiro. Good
18 morning, sir.

19 Ambassador Yerxa. Good morning.

20 Mr. Shapiro. Good morning.

21 Ms. Miller. Mr. Chairman, the committee has before
22 it a document entitled "Committee on Finance North
23 American Free Trade Agreement Draft Implementing
24 Proposal Staff Recommendations."

25 It is a document that includes 25 different proposed

1 staff recommendations that have been worked out in
2 meetings of the legislative assistants, the
3 administration, and committee staff over the last three
4 or four days since your last mark-up.

5 Essentially, what this does is fill in the gaps, to
6 the extent that there were items in the proposal before
7 you last week where there was some issue yet to be
8 resolved. This does resolve all those issues. It also
9 includes amendments that Senators are interested in
10 offering that could be worked out through the staff
11 process.

12 A number of those speak to the Statement of
13 Administrative Action which the administration must
14 submit for approval.

15 Mr. Chairman, I would be glad to walk through them,
16 or, if members have questions, either way, depending on
17 how you would like to proceed.

18 The Chairman. I would like to walk through them.
19 Is that not what you think? Now, we are here in
20 committee assembled. Let us go through them one by one.

21 Ms. Miller. Very good. The staff recommendations
22 are keyed to the spread sheet that you also have before
23 you that we discussed last week which goes through the
24 agreement article by article.

25 The first one that we have relates to the

1 consultation with State Governments. Essentially, it
2 elaborates on an expanded consultative process with the
3 States to assure that they know what their obligations
4 are for implementing the NAFTA.

5 One thing it does which the States had expressed a
6 great interest in is, through the Statement of
7 Administrative Action, the administration says that it
8 will establish a single point of contact for the States
9 to help them in learning what actions they need to
10 implement the NAFTA. It also says that the States
11 intended to establish such a single point of contact.

12 On page two at the top of the page, you have a
13 recommendation regarding the initial implementing
14 regulations for the rules of origin. The proposal here
15 is that the administration should issue those
16 regulations as soon as possible.

17 The Chairman. Could I interrupt just a moment?

18 Ms. Miller. Yes.

19 The Chairman. If the administration has any comment
20 on these as we go along, will you offer them?

21 Ambassador Yerxa. We will, Mr. Chairman. We have
22 looked at them, but we are still doing a last-minute
23 check here. There will be a couple of items where we
24 will have some comment.

25 The Chairman. Fine. I am sorry. Senator Roth.

1 Senator Roth. Mr. Chairman, in connection with
2 consultations with State Governments, do we have
3 anywhere a listing of what the various requirements and
4 provisions impacting on the States are?

5 I can say Delaware has become very concerned about a
6 number of mandates being made, and I think it would be
7 very helpful to us if we had a page as set forth as to
8 exactly what will be required of a State under NAFTA.

9 Ms. Miller. Perhaps I can let the administration
10 speak to how they intend to inform the States of their
11 obligations.

12 Ambassador Yerxa. Senator Roth, we have had
13 numerous meetings and consultations throughout the
14 entire process of the negotiations with our
15 Intergovernmental Policy Advisory Committee. We have an
16 advisory committee which includes the State
17 representatives as part of that process. So, we have
18 been consulting with them on a regular basis about the
19 features of the agreement and aspects to which it might
20 apply obligations to the States.

21 There are some issues that they have raised. I
22 think, for the most part, we have satisfied them. But I
23 can have the staff prepare a list of those issues on
24 which we know the States have raised concerns with us,
25 if that would be helpful to you.

1 Senator Roth. That would be helpful. But I would
2 like to have a complete list if we could, not only those
3 in which there is some controversy.

4 Ambassador Yerxa. I will do that. I think it is
5 important to point out that many of the obligations we
6 have assumed under this agreement that go to the sub-
7 Federal or to the State level are obligations which we
8 previously undertook, for example, under GATT.

9 And, for the most part, the States are already
10 conforming to those, so there are very, very few cases
11 where State practice or State law changes.

12 For example, in the procurement area we have not
13 subjected the States to new procurement rules as a
14 result of this agreement. But I will prepare for you a
15 list. I will have someone prepare that as soon as
16 possible.

17 Senator Roth. I would appreciate it.

18 Ms. Miller. Mr. Chairman, the next item on the
19 staff recommendation relates to Mexico's status under
20 the Generalized System of Preferences. The proposal
21 here is that, once the NAFTA takes effect, Mexico would
22 no longer be eligible for preferential treatment under
23 the GSP program. The purpose is to avoid any
24 circumvention of the rules of origin under the NAFTA
25 which are more strict than the rules of origin under the

1 GSP program.

2 Item 4 under the staff recommendations relates to
3 how amendments to the NAFTA would be implemented under
4 U.S. law. The first two items grant the President the
5 authority to proclaim tariff modifications, including
6 the acceleration of any duty reductions that may be
7 agreed under the NAFTA in the future. It also
8 authorizes the President to proclaim modifications to
9 certain rules of origin.

10 At the bottom of the page begins a discussion of
11 other amendments that may take place in the future to
12 the NAFTA. The proposal here is that normal legislation
13 would be required for any changes to the NAFTA that
14 required changes in U.S. law.

15 Certain kinds of changes would be subject to
16 consultation and layover requirements: a similar system
17 that was set up under the Canada Free Trade Agreement
18 that the administration must consult with the private
19 sector, receive advice from the International Trade
20 Commission, and then submit those proposals to the
21 Congress or to the Ways and Means and Finance Committee,
22 allow 60 days to pass to essentially assure that there
23 is no concern or controversy over the proposals before
24 they would take effect.

25 On the bottom of page three, we have a proposed --

1 The Chairman. Could I just say one more thing? I
2 think it would be helpful if Mr. Figel just indicated
3 that this is agreed to on both sides.

4 Mr. Figel. Yes, sir. The entire package has been
5 approved by both sides.

6 The Chairman. This is your joint submission?

7 Mr. Figel. Complete staff package.

8 The Chairman. Right.

9 Ms. Miller. At the bottom of page three, you have a
10 provision that relates to how the tariff acceleration
11 process will be handled with respect to those products
12 that are subject to a phase-out over more than 10 years.
13 Those are essentially the most sensitive products, and
14 that is why the transition period to free trade for
15 those products is the longest.

16 The proposal here, is that the administration would
17 look for agreement in the industry if there was going to
18 be such a duty reduction, and that they would not
19 consider a request for such a duty reduction if they had
20 considered one and rejected it in the last three years,
21 or in the last three times they went through this
22 exercise of considering tariff acceleration.

23 One other point here, is the staff was aware of a
24 number of industries that would like to see duties come
25 down more quickly at the same time, and the committee

1 report would cite the fact that the committee does urge
2 the administration to press Mexico for accelerated
3 removal of the duties in areas where there is concern
4 that the concessions in the NAFTA itself are not
5 reciprocal.

6 The sixth item on page four relates to the drawback
7 authority and, specifically, how it will work in
8 instances where there is a lag between the time of the
9 imported good which is being then exported after being
10 manufactured into a product in the United States.

11 It is really a technical provision to assure that
12 companies that are granted drawback do not subsequently
13 re-export those products to Mexico or Canada because
14 they, in that case, would not be eligible for drawback.

15 Item 7 responds to some concerns that members had
16 about the country of origin marking requirements on
17 certain products, and assuring that the country of
18 origin marking requirements would continue to include a
19 requirement that the goods be marked in a permanent
20 fashion so that the purchaser knows their origin.

21 The Chairman. Now, is that from down in the sewer
22 or up on top of the ground?

23 Ms. Miller. I may have to refer to the Customs
24 Service on the specific marking requirement on manhole
25 covers, unless my colleague, Ms. Lamb, knows the answer.

1 Ms. Lamb. It would require that the manhole covers
2 be marked on the top, Mr. Chairman.

3 The Chairman. Thank you.

4 Senator Rockefeller. Mr. Chairman.

5 The Chairman. Senator Breaux wins again. Senator
6 Rockefeller.

7 Senator Rockefeller. This is actually the kind of
8 refinement that lends itself to that kind of question,
9 but, in fact, is very important. And it has been
10 frustrating for very long, and it is just not a change
11 of policy, it is simply a changing of the wording to
12 make it clear. And I think it is a very, very good
13 change.

14 The Chairman. Thank you.

15 Ms. Miller. Item Number 8 requires the
16 administration to submit a report to the Finance and
17 Ways and Means Committees for the first five years of
18 the NAFTA. The report is described on the top of page
19 five regarding the effectiveness of the NAFTA's
20 automotive trade provisions.

21 The purpose of the report is to follow how
22 automotive trade proceeds between the U.S. and Mexico,
23 and also determine whether or not some of the claims of
24 the benefits of the NAFTA will, in fact, be realized.

25 Ambassador Yerxa. Mr. Chairman.

1 The Chairman. Ambassador Yerxa.

2 Ambassador Yerxa. On that item, we certainly are
3 supportive of the thrust of this. However, we are
4 concerned about being able to produce a good and
5 authoritative report.

6 And our preference would be to have a biennial
7 reporting requirement rather than an annual reporting
8 requirement because we think that would certainly enable
9 us to most fully reflect the changes that are taking
10 place if we look at it in two-year segments.

11 Of course, one of the major concerns here is just
12 the resources that it takes to do this kind of a study,
13 but I think another important concern is, I think a
14 biennial report would certainly demonstrate the changes
15 more dramatically.

16 The Chairman. We have a precedent in constitutional
17 history. The Continental Congress required accounts
18 from the executor every six months. The problem is,
19 they never got any. And Madison said, requiring things
20 too often, you end up getting them not at all. I would
21 be disposed to think a two-year report gives you more of
22 a trend than a one-year.

23 Senator Roth. Mr. Chairman, actually, the
24 Department of Commerce has indicated certain beneficial
25 impacts will take place in the very first year. The

1 staff developed this language which was agreed upon and
2 in which there were representatives of the
3 administration. And I think there is no area of more
4 critical importance than the automobile industry, so
5 that I would hope that we could retain the annual
6 report.

7 The Chairman. I wonder if we could have a report at
8 the end of the first year when the first impact is felt,
9 and then a biennial report, thereafter.

10 Ambassador Yerxa. That would certainly be
11 acceptable to us, Mr. Chairman.

12 Senator Roth. I would say to the Chairman that this
13 is a matter of such critical importance. Certainly the
14 auto industry is key to our economy. It has a
15 tremendous impact, not only on the people involved
16 directly in that industry, but those that supply it.
17 So, I would hope that we could keep the language on
18 which agreement was reached.

19 The Chairman. Fine. If this is important to the
20 Senator, we will keep it.

21 Senator Roth. Thank you, Mr. Chairman.

22 Senator Hatch. Mr. Chairman.

23 The Chairman. Senator Hatch.

24 Senator Hatch. Mr. Chairman, if I could go out of
25 order here for a minute.

1 The Chairman. You may. You are never out of order,
2 Senator Hatch. It is not in your nature.

3 Senator Hatch. Well, that is something I have been
4 told.

5 Senator Grassley. There are a lot of Republicans
6 that would not agree with you.

7 Senator Hatch. Yes. That is right. I can think of
8 a few Democrats, too. I have to be in Judiciary, and I
9 just simply cannot miss.

10 The Chairman. Yes. Is there something you would
11 like to go to?

12 Senator Hatch. Well, is it Chapter 5, Article 5?
13 On Chapter 5, on the Customs Modernization Act. I
14 understand the committee is prepared to take that.

15 The Chairman. Not this morning. We are not going
16 to deal with that.

17 Senator Hatch. You are not going to get into that.

18 The Chairman. Oh. The Customs Modernization Act.

19 Senator Hatch. Yes. The Customs Modernization Act,
20 which we passed unanimously last year.

21 The Chairman. Right.

22 Senator Hatch. Which is overdue and really needed.

23 The Chairman. Yes.

24 Senator Hatch. If you could move that for me at the
25 time, I would really appreciate it, and get it into the

1 record.

2 The Chairman. Oh, yes. You do not need to be here,
3 but you want it moved.

4 Senator Hatch. Yes. If you and our Ranking Member
5 would do that.

6 Senator Breaux. Would the Senator yield? I think
7 you and I have the same interests on an amendment to the
8 Modernization Act on the 1999 date.

9 Senator Hatch. Right. Right.

10 Senator Breaux. Yes. I will bring it up and get
11 that together.

12 Senator Hatch. Well, I really appreciate that. If
13 you will forgive me, because I cannot be here for it,
14 and I sure want to make sure it is in there. Thank you,
15 Senator. I appreciate it. Thank you, Mr. Chairman.

16 The Chairman. Fine, then. We will proceed, and
17 Senator Breaux will take care of that matter.

18 Ms. Miller. Mr. Chairman, the next item on the
19 staff package is Number 10, which relates to a provision
20 of the Canada Free Trade Agreement and the original
21 Canada Free Trade Agreement, which was not changed by
22 the NAFTA.

23 It relates to the snap-back of tariffs on fresh
24 fruits and vegetables and a system for the U.S. to set
25 those tariffs when imports of fresh fruits and

1 vegetables come in quickly and are disrupting the
2 market.

3 The problem has been that the system has not worked
4 very quickly, which was its original purpose under the
5 Canada Free Trade Agreement. The proposal here, is that
6 the Secretary of Agriculture would be required to
7 identify the increase in imports and the problem in this
8 area quickly and act on it; rather than a recommendation
9 going to the President, that the Secretary of
10 Agriculture would have the power to impose that duty.

11 Ambassador Yerxa. Mr. Chairman, I do have to raise
12 concerns about this provision. I would ask that we not
13 act on this at this moment to have some more time for
14 consultations between the administration and the
15 committee over this matter. But --

16 The Chairman. Fine. Just making the point that
17 there is pressure in this matter; time sensitivity is
18 the point which the administration makes. We certainly
19 defer to you.

20 Ambassador Yerxa. Well, I am not proposing a long
21 delay, Mr. Chairman.

22 The Chairman. No, no.

23 Ambassador Yerxa. But the concern here is, under
24 existing law, the President has the authority to impose
25 import restrictions. This is a fundamental change that

1 it delegates that to a single cabinet officer and there
2 is some significant concern about that, concern from
3 USTR's point of view, as well as, I think, an overall
4 administration point of view.

5 The Chairman. Fine. No, no. Fine.

6 Senator Rockefeller. Mr. Chairman, Ken Conrad is
7 sick and cannot be at the meeting today. This is
8 something that he cares about a lot.

9 The Chairman. Fine.

10 Senator Rockefeller. And before we just simply --

11 The Chairman. We will lay it over until we are
12 ready.

13 Senator Rockefeller. Yes. And I want to make sure
14 that he has a chance to be heard on that.

15 The Chairman. Right. Right.

16 Senator Pryor. Can I ask one question on this
17 provision? I know, Mr. Chairman, I am out of order in
18 asking.

19 The Chairman. No, sir.

20 Senator Pryor. And I know we are going to have this
21 later in a subsequent hearing. But how much time would
22 the Secretary of Agriculture be given to provide notice
23 of any kind of violation of the section; is there a time
24 limitation involved in this language?

25 Ms. Miller. The proposal here is that the Secretary

1 of Agriculture should identify, essentially, the
2 situation as soon as it occurs, as soon as the USDA has
3 the information that it is occurring.

4 Senator Pryor. Right.

5 Ms. Miller. Once he has identified the situation,
6 he must act within seven days.

7 Senator Pryor. Should we not be a little more
8 specific about how much time he would have? Because the
9 Secretary may say, for example, that, well, we are going
10 to delay this six months and watch it, or two years, and
11 study this. Should there not be some sort of a
12 mechanism or a trigger that we should consider? I am
13 just throwing that out for consideration. I know we
14 will deal with this at a subsequent time. Thank you.

15 The Chairman. And I guess I would like to ask, do
16 we have a Free Trade Agreement with Canada or do we not?

17 Ambassador Yerxa. Yes, we do, Mr. Chairman.

18 The Chairman. Well, what is this throwing back,
19 tariffs of radishes?

20 Go ahead, Ms. Miller.

21 Ms. Miller. Mr. Chairman, I notice that I missed
22 Number 9. I will go back, briefly, to describe it. It
23 is just granting the President the authority to proclaim
24 changes in the definitions to the rule of origin within
25 one year after enactment of the NAFTA similar to the

1 earlier provisions we described granting the President
2 proclamation authority to change specific rules.

3 The Chairman. Yes.

4 Ms. Miller. At the top of page six, number 11, is a
5 provision that asks the administration to state in the
6 Statement of Administrative Action that it intends to
7 monitor imports of broom corn brooms, an industry that
8 has been concerned about the impact of the NAFTA on
9 domestic producers here. It is essentially just
10 Statement of Administration Action language, it is not
11 an amendment to the implementing bill itself.

12 Number 12 relates to the binational panels
13 established under Chapter 19 of the agreement which
14 review antidumping and countervailing duty cases and
15 appeals of decisions made by the Commerce Department and
16 the International Trade Commission.

17 It essentially adopts a similar procedure to that
18 which we have had under the Canada Free Trade Agreement
19 but just adding a requirement that the Finance Committee
20 will expect a written report detailing more information
21 on the individuals that will serve as binational
22 panelists, and also asking USTR to speak to the degree
23 to which they have tried to find judges to serve in
24 these posts, and, if all the panelists are not judges,
25 the reason, and the qualifications that they have looked

1 at in this regard.

2 The Chairman. Can I ask, in just an informational
3 way, the American Arbitration Association has been
4 around for much of the century, as I recall, and it was
5 a profession developing for awhile--I am sure it still
6 is--of the arbitrator, not necessarily a lawyer. Are we
7 precluding an activity which was designed to do just
8 exactly what this sort of panel indicates should needs
9 doing?

10 Ms. Miller. Mr. Chairman, as I understand the NAFTA
11 itself, it includes a preference for judges, but it is
12 not a requirement. The administration may want to speak
13 to it, but I think that they do expect to use other
14 arbiters and perhaps other lawyers or others who have
15 some background in this field. I do not know if they
16 would like to speak to it specifically.

17 Mr. Shapiro. Mr. Chairman, frankly, the thrust of
18 this effort has been to increase the use of judges,
19 where possible, for basically two reasons, I think.

20 One, is a concern that has been expressed by many on
21 the committee and elsewhere that, when you are dealing
22 with non-judges--and this does not necessarily include
23 arbitrators of the sort you are referring to--the panels
24 have, in their effort to find sort of very qualified
25 people, often ended up with a roster where people who

1 are very good have also had certain conflicts of
2 interest. It has been difficult, in other words, to
3 find non-judges who came to it with some expertise, but
4 also an absence of conflict.

5 The Chairman. Fine. Well, could we just note that
6 the profession, the activity as arbitrator, is a
7 recognized one in the United States and has played a
8 considerable role in labor and management relations, for
9 example, and not least in all sorts of commercial
10 disputes.

11 Can I go back for a moment? Would you tell us more
12 about the broom corn broom industry, as you described
13 it?

14 Ms. Miller. Well, Mr. Chairman, I may have to help
15 for help on this because I am not that familiar with the
16 industry. But they are subject to a long --

17 The Chairman. Do you want to call it an industry or
18 an activity?

19 (Laughter)

20 Ambassador Yerxa. I think --

21 Ms. Miller. Go ahead, please.

22 Ambassador Yerxa. We are talking here about making
23 them, not using them, I think.

24 Ms. Miller. Yes.

25 The Chairman. Where did this come from? I regret a

1 tendency to see various particulars arise in our
2 submission here.

3 Ms. Miller. Mr. Chairman, perhaps Mr. Figel can
4 help us through it.

5 Mr. Figel. Maybe I can help. Mr. Chairman, broom
6 corn is actually an agricultural product that is grown
7 in the United States.

8 The Chairman. Sure.

9 Mr. Figel. And the concern is that, under the
10 tariff phase-out schedule, it is phased out in such a
11 way that imports will harm the broom corn industry in
12 the United States. This is simply a monitoring
13 requirement to keep an eye on the imports.

14 The Chairman. Well, isn't the President supposed to
15 do that with regard to all imports?

16 Mr. Figel. He is, Mr. Chairman. But this industry
17 has been identified as one that is particularly import
18 sensitive.

19 Ambassador Yerxa. If I could, Mr. Chairman. In the
20 agreement in the negotiations, broom corn brooms were
21 placed in the most sensitive category for phase-out of
22 tariffs. But, notwithstanding that, there is a
23 particular concern that this industry was identified as
24 particularly sensitive. And I think this language
25 simply would express a tension on the administration to

1 keep careful watch over the situation to determine
2 whether the conditions --

3 The Chairman. We will do it in memory of those
4 innovative Shakers who developed the first flat broom in
5 Albany, New York in the 1830s and changed the life of
6 housewives ever after.

7 Ms. Miller. Mr. Chairman, at the top of page seven
8 there is some language regarding the standard of review
9 in binational panel cases. Essentially, the point here
10 is that the Statement of Administrative Action and
11 committee report would both emphasize that the standard
12 of review for the binational panels is the same standard
13 that applies for U.S. domestic courts. That is
14 consistent with what the agreement provides, but there
15 was a desire to re-emphasize that point.

16 Number 14 refers to the grounds for invoking
17 extraordinary challenge procedures under the NAFTA and
18 speaks again to the point about the appropriate standard
19 of review. Mr. Shapiro referred a few moments ago to
20 some concerns in the past about how the panels have
21 worked and applied the standard of review.

22 Essentially, both 13 and 14 are trying to re-
23 emphasize that the Congress does believe that the
24 appropriate standard of review is the same that a U.S.
25 court would apply in reviewing these cases.

1 Ambassador Yerxa. Mr. Chairman, I would simply ask,
2 on Number 14, while we are not disagreeing to the
3 provision, that we have some opportunity during the next
4 day or so to work out some of the language with the
5 committee staff. We are supportive of the objective, we
6 just want to make sure that the language is something
7 agreeable to us.

8 The Chairman. Fine.

9 Senator Rockefeller. And, again, I hope that would
10 also include Senator Conrad.

11 The Chairman. And Senator Conrad will be consulted,
12 too.

13 Ms. Miller. Mr. Chairman, Number 15 speaks to
14 essentially how interested parties to binational panel
15 cases are consulted or their opportunity to request an
16 extraordinary challenge committee review of a decision
17 by a binational panel case.

18 It does not put it into the law, it just asks that
19 the administration elaborate on the procedures for
20 petitioning or requesting this review by the
21 extraordinary challenge committees.

22 Number 16 refers to the import monitoring provision
23 that was included in the Canada Free Trade Agreement
24 implementing bill. Essentially here, the proposal is to
25 maintain that provision. There are some conforming

1 changes necessary, but it would be just to keep the same
2 provision that has existed since the Canada Free Trade
3 Agreement.

4 There is also a comment here asking the
5 administration in the Statement of Administrative Action
6 to monitor government actions where there is a potential
7 subsidy.

8 There was a recent case that the USTR acted on. The
9 plans, I think, in this case, have not been constructed
10 yet, but there is a question about subsidies to the
11 plant and a concern by the domestic industry. And USTR
12 has chosen one path, that the point here is sort of to
13 agree with that and emphasize that.

14 The top of page eight. The Canada Free Trade
15 Agreement included some negotiating objectives regarding
16 subsidies. This proposal just rewrites those objectives
17 consistent with where we are now to make them
18 consistent, both with the fact that we are looking at
19 the Uruguay Round, the NAFTA, and a statement of what
20 our objectives should be in subsidy negotiations.

21 At the bottom of page eight, Number 18 asks that the
22 GAO prepare a report on binational panel decisions under
23 the Canada Free Trade Agreement, and also asks that they
24 compare those panel decisions with rulings by the Court
25 of International Trade in similar cases. It also

1 requires that the GAO do annual reports for us on how
2 the Chapter 19 panel process is working.

3 The Chairman. I hope we are not developing a list
4 of particulars, stated or implied, which suggest that
5 the Canadians are not keeping their end of an agreement
6 with us. I have no evidence that is not so, save that
7 in Canada there are Canadians who think that the United
8 States is taking advantage as well. Is there something
9 such implied here?

10 Ms. Miller. No, Mr. Chairman. I do not really
11 think so. This reflects concern about the way these
12 binational panels have been reviewing antidumping and
13 countervailing duty cases more than any action of
14 Canada, specifically.

15 It is a concern about this binational panel process,
16 which essentially substitutes for domestic judicial
17 review, and there's been a great deal of sensitivity
18 about that.

19 The Chairman. Well, all right. But I would just
20 like to lay it down to this Senator that we have built a
21 large achievement between our two Nations in the Free
22 Trade Agreement, and I do not like to see it picked at
23 because one person or another did not get the outcome of
24 some procedure that they had desired.

25 Senator Daschle. Mr. Chairman.

1 The Chairman. Sir.

2 Senator Daschle. I do not know that we will get
3 into any other opportunities for the GAO to provide us
4 with additional information, and, since we are talking
5 about the GAO, one concern that some of us have had for
6 a period of time is the way with which we deal with
7 inspections of imported meat from Mexico.

8 We have been given assurances that we will have all
9 the same opportunities to inspect imported meat after
10 NAFTA that we have today, but there are a lot of
11 questions about the mechanics of this. We have had
12 similar questions with regard to Canada that we are
13 continuing to work out many years, now, after the
14 Canadian Free Trade Agreement has been agreed to.

15 I am wondering whether it would be helpful to us to
16 suggest that the General Accounting Office give us a
17 periodic review of the inspection process, how well it
18 is working, whether or not our standards are met,
19 especially as it relates to sanitary and phytosanitary
20 conditions of imported Mexican meat. The GAO may be the
21 best one to do that; they have done similar reports in
22 the past.

23 The Chairman. Well, the question is a perfectly
24 legitimate one as we enter a new regime. Would the GAO
25 be best? I would have thought that that is what the

1 Department of Agriculture is for. Does the
2 administration have a view? Senator Daschle.

3 Senator Daschle. I have no objection to the
4 Department of Agriculture doing it either, but somebody,
5 I think, ought to give a periodic evaluation of the
6 degree to which the import of Mexican meat has been
7 inspected and what conditions the inspection system
8 require for imported Mexican meat.

9 The Chairman. Why do we not let the administration
10 and our counsel think about that for a moment? We are
11 in the final stages of a vote. Shall we just stand in
12 recess and come back to this question?

13 Senator Daschle. All right.

14 The Chairman. I say the Department of Agriculture
15 because the meat inspection service is 75 years in
16 position. This is a technical matter. There is a
17 science to this subject beyond that of just accounting.

18 We stand in recess.

19 (Whereupon, at 10:45 the meeting was recessed.)

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1 AFTER RECESS

2 (11:03 a.m.)

3 The Chairman. May I say that we are going to have a
4 number of votes this morning? To get our work concluded
5 we will simply have to keep as close as we can to the
6 turn around from the floor.

7 Now, where were we, Ms. Miller?

8 Ms. Miller. Mr. Chairman, we were at the top of
9 page nine of the staff recommendations. I would say
10 here that 19, 20 and 21 all provide for or request
11 Statement of Administrative Action and committee report
12 language regarding specific problems that have arisen in
13 panel and binational panel procedures. The concerns
14 relate to binational panels incorrectly interpreting
15 U.S. law. And all of these three provisions --

16 The Chairman. Fine. We will ask the GAO, is it
17 appropriate for that office to look into that? They
18 are a branch of Congress. That is fine. Now, you want
19 to get to the bottom of the page.

20 Ms. Miller. Right. The bottom of page nine, Number
21 22, top of page 10.

22 The Chairman. Senator Wallop, did you make a
23 recommendation?

24 Senator Wallop. No, sir.

25 The Chairman. I am sorry.

1 Senator Wallop. I am just trying to keep my chair
2 from falling off the ledge over here.

3 (Laughter)

4 Senator Wallop. If you see me doing that, it is
5 because I have gone.

6 The Chairman. A great memorial service.

7 Ambassador Yerxa. Just to briefly comment on page
8 nine, Mr. Chairman, on Item 21, we would want to discuss
9 further with staff the language of this provision.

10 The Chairman. Well, let us go through 19 and 20,
11 first.

12 Ms. Miller. I am sorry, Mr. Chairman. Do you want
13 me to go back through them again? These were the three
14 provisions related to the interpretation of U.S. law by
15 binational panels.

16 The Chairman. All three require that. All right.
17 Fine. Now, we are on 21. Good.

18 Ms. Miller. Yes, we are.

19 Ambassador Yerxa. And I just, briefly, wanted to
20 say that we would like to discuss and work out with the
21 staff the exact language of this Statement of
22 Administrative Action. We are somewhat concerned about
23 the language that is there, but think we can work out
24 appropriate language.

25 Ms. Miller. Number 22 authorizes appropriations to

1 the Department of Commerce for the expenses associated
2 with binational panels, both under the Chapter 19
3 antidumping/countervailing duty disputes, and general
4 disputes under Chapter 20.

5 Item Number 23, relating to the Chapter 20
6 panel roster--Chapter 20 being the general dispute
7 settlement--provides that the USTR shall consult with
8 the Ways and Means and Finance Committee regarding those
9 candidates for those panels.

10 Number 24 is a provision which essentially requires
11 the identification of countries that restrict imports,
12 or basically deny national treatment or market access to
13 goods based on culture. It provides a procedure for
14 USTR action if there is any effort by Canada that
15 violates the NAFTA regarding cultural industries occurs.

16 Senator Grassley. Mr. Chairman.

17 The Chairman. Senator Grassley.

18 Senator Grassley. In regard to Number 24, but more
19 conceptually rather than that there is a direct
20 relationship, I want to raise the point that, since this
21 is a sector-specific item that has been added, and there
22 is going to be a lot of arguments made not to have
23 sector-specific items or amendments adopted, and I am
24 going to report to you something that is going on in the
25 other body in regard to this, as well as an amendment, I

1 have expressed an interest on home appliance
2 manufacturing.

3 Congressman Grandy, who is on the Ways and Means
4 Committee, is also from my State. He is sponsoring,
5 over there, the Home Appliance Act. There was some
6 objection. It is my understanding that Congressman
7 Matsui, California, was promoting the same cultural
8 industries provisions that we just discussed in 24.

9 And he raised the point that I suppose I could
10 raise, but will not have to raise because I am telling
11 you about it, that if there is no objection to this
12 sector-specific provisions in regard to culture, what is
13 the problem with sector-specific things as they relate
14 to home appliance?

15 The Chairman. Senator Grassley, we have just gone
16 by broom corn brooms.

17 Senator Grassley. All right.

18 The Chairman. I do not know whether that is a
19 sector of the economy, but, have no fear.

20 Senator Rockefeller. Mr. Chairman, we have one of
21 those aforementioned items in Charleston, West Virginia.

22 The Chairman. Then that is why it is here.

23 Senator Grassley. Well, I think the point that I
24 would like to make, Mr. Chairman, is that I would like
25 to reserve the right to object to this. I just reserve

1 the right to object.

2 The Chairman. You have that right.

3 Senator Grassley. I think there are several things
4 that can evolve in the meantime. There are efforts to
5 work out something in the Ways and Means Committee.
6 Ambassador Kantor said he is trying to work out some
7 things on this matter of home appliances.

8 I have got some amendments that I am going to bring
9 to the attention of this body. But I just would like to
10 make the point that this is something where what is good
11 for the goose is good for the gander, the way I look at
12 it. And I want to raise the point about culture, and,
13 hopefully, we can work something out.

14 The Chairman. Surely.

15 Ambassador Yerxa. Mr. Chairman, may I say
16 something?

17 The Chairman. Ambassador Yerxa.

18 Ambassador Yerxa. The administration has indicated
19 that we are supportive of a provision relating to
20 appropriate action on cultural matters because it is
21 worth pointing out a little bit of the background here
22 in the Canada Free Trade Agreement negotiations.

23 Canada insisted on maintaining an exemption from
24 CFTA commitments for its cultural-based restrictions,
25 but the U.S. insisted on maintaining the right to act if

1 Canada exercised such restrictions. This provision that
2 you are talking about here would simply reflect that
3 right to act by the U.S. It is very important, I
4 think --

5 The Chairman. This does not mark a change.

6 Ambassador Yerxa. I am sorry?

7 The Chairman. This does not mark a change in our
8 policy or impose a new condition on our relations.

9 Ambassador Yerxa. It does not impose a new
10 condition on the relationship, and it is not contrary to
11 the NAFTA itself. It is consistent with the agreement.
12 The important thing here is, it is a reflection that the
13 U.S. is not going to sit by and allow cultural
14 restrictions, either in NAFTA, or in trade agreements
15 with other countries. And this is particularly
16 important in the context of the Uruguay Round, as you
17 know.

18 The Chairman. Fine. Please proceed, Ms. Miller.

19 Ms. Miller. Mr. Chairman, that completes the
20 description of the staff recommendations.

21 The Chairman. Now, then I believe we have one of
22 two options here. We can proceed to the discussion of
23 funding, but I do not think we have any particulars at
24 this point, do we?

25 Ms. Miller. Mr. Chairman, we have asked OMB

1 Director Panetta to join the committee when he is
2 finished with his meeting at 11:00 o'clock with the Ways
3 and Means Committee.

4 The Chairman. All right. We do have a Transitional
5 Worker Adjustment proposal before us. Would it make
6 sense to proceed to that, to consider it? Senator
7 Packwood?

8 Senator Packwood. Do whatever you want.

9 The Chairman. I think, of the two large items we
10 have, this is one.

11 Senator Rockefeller. Mr. Chairman.

12 The Chairman. Senator Rockefeller.

13 Senator Rockefeller. When you say consider, you
14 mean just discuss it? I have two amendments.

15 The Chairman. Consider it. Well, let us put it
16 down for adoption and see whether we agree. And, if you
17 have amendments, you may offer them. Would that not be
18 the most useful way? Yes. That is the most useful way.
19 Fine.

20 You all have this document in front of you. It is a
21 simple, 19-page proposal. As I understand it, the
22 administration has in mind to send a comprehensive
23 worker adjustment proposal, it is called now. That used
24 to be worker training, or retraining. Now it is called
25 adjustment.

1 Ms. Miller. Worker retraining is one element of the
2 program.

3 The Chairman. The other is getting adjusted to
4 being unemployed.

5 Ambassador Yerxa. To getting a new job, I think.

6 The Chairman. I get nervous when I see new words
7 and new euphemisms.

8 Ms. Miller. I think, Mr. Chairman, that that is,
9 perhaps, based on the term Trade Adjustment Assistance.
10 Worker Adjustment Assistance, following --

11 The Chairman. Fine. Why do you not tell us what
12 you have?

13 Ms. Miller. Mr. Chairman, what I would like to do
14 is ask Dr. Katz from the Department of Labor to describe
15 the proposal, since it is an administration proposal.

16 The Chairman. Thank you.

17 Mr. Katz, good to see you again and have you before
18 the committee again. We all have to have a little bit
19 of order here. Dr. Katz, would you proceed and speak
20 into that microphone?

21 Dr. Katz. Thank you very much, Mr. Chairman. I
22 think we would like to call this proposal the NAFTA
23 Worker Security Act, as opposed to a Transitional
24 Adjustment Act.

25 The Chairman. Security is the new word, I gather.

1 Mr. Katz. Security and re-employment, as opposed to
2 adjustment and relocation.

3 The United States is expected to realize overall
4 economic benefits as a result of the North American Free
5 Trade Agreement. We believe it will improve living
6 standards. We also believe it is a route towards more
7 and better jobs.

8 Furthermore, while there has been much discussion of
9 the amount of worker dislocation that may be associated
10 with it and we have great concerns about any dislocated
11 workers, we believe that the NAFTA will actually reduce
12 the amount of worker dislocation in the United States,
13 particularly in the short-run.

14 An important point that is often forgotten is that
15 the completion of the NAFTA will be part of a gradual,
16 continuous process of liberalizing trade in North
17 America. Mexico has already taken unilateral actions in
18 that area; we have a Free Trade Agreement with Canada
19 that will not be a sharp, disruptive shock.

20 Large amounts of worker dislocation in the short-run
21 tend to accompany sharp, disruptive shocks such as
22 recessions or major changes. Thus, we would expect in
23 the short-run the type of shock would be the defeat of
24 NAFTA, which would be a major disruption of patterns,
25 not at some passage.

1 So, we expect it to reduce the amount of
2 dislocation, but we are terribly concerned with making
3 sure that no worker faces economic change without having
4 the tools to be able to move into another job.

5 And, for that reason, not just in the NAFTA context,
6 but more broadly, this administration is developing a
7 comprehensive Worker Security Act and Re-employment Act
8 that will try to move from a very fragmented existing
9 system where, essentially, we have two parts: we have an
10 Unemployment Insurance system, set up in the 1930s, that
11 does a good job of providing temporary income support
12 for people waiting to get their old job back; we have a
13 series of categorical worker dislocation adjustment
14 programs that serve certain groups reasonably well, but
15 are very administratively cumbersome.

16 And our goal is to introduce, early next year, a
17 comprehensive program to move towards a re-employment
18 system that provides a customer-oriented system of up-
19 front adjustment assistance, job search assistance,
20 counseling assessment, retraining with a focus on long-
21 term training rather than short-term training that has
22 not been found to be very effective, and the possibility
23 of income support to complete such training.

24 While that is something we plan on introducing next
25 year and would hope to have enacted by the middle of

1 July 1, 1995, we want to make sure that no NAFTA-
2 affected workers are left in the interim unassisted.

3 And, for that reason, we are proposing a NAFTA
4 Worker Security Act to provide to workers affected by
5 NAFTA the type of services we think all dislocated
6 workers ought to receive.

7 And, in putting together this program, the
8 legislative vehicle is an amendment to the Trade
9 Adjustment Assistance Act, but it is not an extension of
10 TAAA. It is not the same thing. What we are trying to
11 do is put together the best aspects of existing
12 programs--the current EDWA program in the Job Training
13 Partnership Act, Title 3, along with TAAA--and use their
14 best aspects.

15 The most positive aspect of EDWA is the fact that
16 you can provide timely assistance to workers, rapid
17 response, up-front delivery of services which research
18 has shown is the most important way of quickly getting
19 workers into new jobs and greatly increases the efficacy
20 of retraining if you get someone into a program early
21 rather than waiting until they exhaust their benefits.

22 On the other end, TAAA has the benefit of actually
23 providing the resources to do long-term training and the
24 income support to complete it.

25 So, the proposal we will provide will combine the

1 best aspects of these two, although the legislative
2 vehicle will be TAA. And, in so doing, it will address
3 what have been the major criticisms of the Trade
4 Adjustment Assistance Program, which is the delays in
5 certification.

6 We will be presenting an expedited certification
7 procedure for getting into the proposal, the lack of up-
8 front services--we will be providing up-front services--
9 and the lack of a linkage between income support and
10 worker training.

11 We will be trying to reduce the amount of disconnect
12 between the two by getting workers into training more
13 quickly and tying income support to actually getting
14 enrolled and to making good progress in a worker
15 training program.

16 So, the basic proposal would be to provide these
17 sets of services to workers who are either affected by
18 increases in imports from Canada or Mexico, or are
19 affected by a production shift, a plant relocation to
20 Mexico or Canada.

21 And we propose to have this in effect at the
22 enactment of the North American Free Trade Act, and to
23 run it for the 18 months until we expect to have our
24 comprehensive program in. This is really a bridge
25 program to the comprehensive program trying to provide

1 for NAFTA-affected workers the types of services we
2 think all dislocated workers should receive.

3 The Chairman. Thank you, Dr. Katz. Just to note,
4 you are proposing, in effect, that in the larger measure
5 you will be amending the Social Security Act, as well as
6 all these other matters, and you will be in consultation
7 with the Social Security Administration.

8 Dr. Katz. Certainly.

9 The Chairman. This will be the first. I would like
10 to just say that Secretary Reisch's view that when
11 persons first apply for employment benefits is the time
12 to ask whether this is a temporary, cyclical change in
13 the hiring at the plant, if you like it that way, and
14 that they can reasonably expect to go back, or that the
15 plant is closed or left for another locale and that they
16 need retraining right then and there. That makes a lot
17 of sense. It has taken us a long time to think about
18 it.

19 But, can you be specific, sir, and tell us how much
20 money, for how many people do you expect to need for
21 this program, and where you are going to get it?

22 Dr. Katz. All right. Where we are going to get
23 it --

24 The Chairman. How much? To start out with, how
25 much?

1 Dr. Katz. All right. We estimate that, over 18
2 months, this would be approximately \$90 million.

3 The Chairman. \$90 million?

4 Dr. Katz. Yes. Over 18 months, would be our
5 estimate. We think that is a high estimate for the
6 following. The amount of dislocation expected to be
7 related to NAFTA, for example, from the Congressional
8 Budget Office, is about 100,000 to 200,000 workers over
9 a 10-year period.

10 Because of the slow phase-in of many of the changes
11 in NAFTA, it is expected that most of that will occur
12 farther out, so that in the early period one would
13 expect much less dislocation. So, we are going to the
14 upper end, thinking that, at most, over the 18 months we
15 would be in the 10,000 to 15,000 worker range.

16 The Chairman. 10,000 to 15,000.

17 Dr. Katz. And that would lead, given the average
18 cost of this program that puts the best of TAA and EDWA
19 together, in the range of around \$90 million to \$100
20 million. That is what we estimate this would cost, and
21 then it would be merged into a comprehensive program.

22 The Chairman. That is about \$8,000 per worker.

23 Dr. Katz. Yes. It is about in the \$6,000 to \$9,000
24 range, on an average.

25 The Chairman. I said \$8,000. \$6,000 to \$9,000.

1 Dr. Katz. Yes. Right. Right. It is about \$8,000
2 per worker.

3 The Chairman. All right.

4 Dr. Katz. Those are the types of average cost.

5 The Chairman. That is a little bit less than the
6 minimum wage.

7 Dr. Katz. That is true, although the program lasts
8 a little longer, in principle, necessarily, than a year.
9 You could be in training for longer than a year.

10 The Chairman. Quite a bit less than minimum wage.
11 Well, that is enough for me. Thank you very much for
12 your very precise answers.

13 Senator Roth. Mr. Chairman.

14 The Chairman. Senator Roth is first; Mr. Riegle is
15 next.

16 Senator Roth. Dr. Katz, what happens at the end of
17 the 18-month period? You talk about this proposal
18 covering 18 months, then you expect to have the new
19 comprehensive legislation enacted. But, as you know,
20 Congress never acts with the dispatch that the Executive
21 Branch intends.

22 So, what happens to those that are in this program,
23 for example, in the middle of a training program, and
24 what happens to those that lose their job after the 18
25 months, assuming that the comprehensive program has not

1. been enacted?

2. Dr. Katz. The answer to the first question is, we
3. anticipate putting in a phase-out provision that,
4. hopefully, will not be relevant because it will just
5. phase into the comprehensive program, which will provide
6. the same sort of benefits.

7. But we will certainly continue the training and the
8. income support for people who are currently enrolled at
9. that time. We also will not--absolutely not--abandon
10. these workers. And, if, at the 18-month mark or before
11. it, we did not have the comprehensive program, we would
12. certainly ask the Congress to extend this program.

13. Senator Roth. But, Mr. Chairman, the thing that
14. bothers me is both this administration and the prior
15. administration made the commitment that there was going
16. to be an adjustment program for those that were
17. impacted.

18. Now, the problem is, if everything goes all right,
19. that is fine. But the fact is, Congress has been
20. talking about a comprehensive program for many years,
21. now. It seems to me that this falls short of the kind
22. of commitment that both administrations have made in
23. getting NAFTA through.

24. Now, I cannot emphasize too much how important I
25. think this adjustment program is. It is jobs we are

1 really concerned about. It sounds to me as if people
2 could be left out in the cold.

3 Dr. Katz. Well, all programs that are categorical
4 have the problem of some people being left out. That is
5 the most important reason why one wants to have a
6 comprehensive program that covers workers, regardless
7 of --

8 Senator Roth. Dr. Katz, we are talking right now
9 about NAFTA and the people that are impacted by it.

10 Dr. Katz. We are absolutely committed to making
11 sure that these workers are covered. We think the best
12 way of doing it is a comprehensive program. If we
13 cannot have that, we would certainly want to extend this
14 program.

15 Senator Roth. But you are not making any commitment
16 now beyond the 18 months, except to say that you will
17 ask Congress. Is that not correct?

18 The Chairman. That is correct.

19 Dr. Katz. That is correct.

20 The Chairman. Senator Roth, I am going to take the
21 liberty of moving around to hear everyone's comment.
22 But, first, Ms. Miller, I believe you have some
23 information for the committee on the CBO scoring.

24 Ms. Miller. Yes, Mr. Chairman. We gave to the CBO
25 on Friday the administration's proposal for scoring

1 purposes as far as pay-as-you-go and the cost that CBO
2 will attribute to the program. CBO scores the program
3 for pay-as-you-go purposes quite differently. And, I
4 must emphasize, these are preliminary numbers from CBO.

5 The Chairman. Right.

6 Ms. Miller. CBO's comment to us has been, if
7 anything, the numbers would be lower than are the
8 preliminary estimates. But, for a ball park range, I
9 thought the committee should be aware of them.

10 The CBO will score against the NAFTA bill an
11 increased cost of Trade Adjustment Assistance benefits
12 of approximately \$130 million over the five-year
13 budgetary window.

14 That will be a score to the bill, whether or not the
15 new program is included, because trade adjustment
16 assistance already provides benefits to workers who are
17 impacted by increases in imports.

18 The additional expense or cost of the Labor
19 Department's proposed program for just 18 months, and in
20 the way that the administration has formulated that
21 proposal, CBO actually scores, for pay-as-you-go
22 purposes, as \$11 million.

23 The Chairman. I see. We have an \$11 million
24 proposal here. Thank you very much.

25 Senator Riegle, you were next.

1 Senator Riegle. Thank you, Mr. Chairman. First of
2 all, I want to go back to your point on the average
3 amount of money per worker. As you were doing the math
4 of something about \$8,000 a year and you were relating
5 it to the minimum wage, I think, first of all, there are
6 different estimates.

7 I think the estimate on the impact of the number of
8 jobs lost is very low. But the amount of money is so
9 paltry that is being offered, and the fact that we are
10 talking about a comprehensive program at sometime in the
11 future--I mean, we have had nine months to anticipate
12 this problem coming down the track--the fact that we are
13 going to have a comprehensive plan sometime over the
14 horizon, I think, is very cold comfort for people.

15 Plus, I think it has to be noted that that is a very
16 controversial concept. I mean, I happen to support it;
17 there are fierce opponents to it in both the House and
18 the Senate. So, getting a comprehensive program enacted
19 is not like waving a wand. It is going to be a very
20 tough fight, and I think very problematical as to
21 whether it can be done.

22 But I want to make two other points. And that is, I
23 want to come off Bill Roth's point. To set this
24 arbitrary termination date of June 1, 1995 and say that,
25 as of that point, we are going to terminate the

1 assistance for these displaced workers, I think, is
2 absolutely crazy. I mean, you have no guarantee that
3 you are not going to have problems go beyond that date,
4 or that you will have anything in place to pick up that
5 problem.

6 And I think, at a minimum, if there is no problem,
7 let us at least take the date out of it so that if
8 people fall into that category they get the help. And,
9 if you are right, they are not going to be there, they
10 are not going to need the help, then there is no cost to
11 it. But the cold fact of the matter is, I think there
12 will be people who do need it, and I want to make sure
13 they are covered.

14 Now, if you are right that it does not cost us
15 anything, it ought to be something then that you can
16 support in good conscience because you do not see it as
17 a problem. But I, for one, at an appropriate point,
18 want to move to take out that June 31, 1995 date as the
19 termination of help for NAFTA-affected workers.

20 And the other point is this--and at an appropriate
21 point I will offer that, too--the way you have drawn who
22 is eligible, you have, essentially, only the direct
23 workers. You do not have the indirect workers.

24 So, if you have got a factory, say, in Michigan or
25 Delaware that is impacted and shuts down and moves to

1 Mexico, if its source of supply is another company down
2 the street or in the neighboring State that has been
3 feeding parts into the Delaware plant or the Michigan
4 plant, those workers lose their jobs, too. I mean, they
5 go down at the same time. It is a direct hit to them.

6 So, the way this is drawn, it makes an artificial
7 distinction. It says the worker in plant number one
8 gets covered, but the worker in plant number two, who is
9 just as unemployed, is basically out in the cold.

10 But, yet, they are directly in the line of fire and
11 I think we should cover that. In fact, this committee
12 at another time, back in 1988, voted to provide Trade
13 Adjustment Assistance to what are called secondary
14 workers.

15 Now, there was the question as to how it was paid
16 for, and we had an approach at that time. But this is
17 not a new issue. We cannot have a situation where, by
18 the use of mirrors, we say, well, it is only this block
19 of workers that are losing their jobs when, in fact, we
20 know it is this number of workers. And to say we will
21 help one and not the other, well, I think we have to
22 help both.

23 The Chairman. Well, let us keep moving around. A
24 fair point. Senator Wallop.

25 Senator Wallop. Thank you, Mr. Chairman. I guess I

1 would try to represent an opposing point of view. I do
2 not think this is any place for this piece of
3 legislation. The Labor Department's own Inspector
4 General reported that the Trade Adjustment Assistance
5 Act is ineffective.

6 And what we are doing is something to make ourselves
7 feel good and to say, publicly, that we were concerned
8 about dislocation. But it will not do anything except
9 create a new entitlement, and I do not think it really
10 belongs here.

11 I think there are other ways in which this
12 committee's resources could be used in providing offsets
13 to corporations, backed with community colleges for job
14 training for specific needs, and other things, that get
15 people into work.

16 This has not, and this will not. It will cost us
17 money, and it will make people feel good, and it will
18 make us appear to have been concerned, but, in the long
19 run, we will not have done anything for the people we
20 have professed we were going to be willing to try to
21 help.

22 The Chairman. Very clearly stated, sir.

23 Senator Bradley, I believe you are next.

24 Senator Bradley. Dr. Katz, you might be more fully
25 responsive to Senator Wallop's point. He made the point

1 that the Inspector General's report said that the TAA
2 system is not working, that there are major problems
3 with it.

4 It is my understanding, Dr. Katz, that this piece of
5 legislation is directly responsive to that Inspector
6 General report and it essentially does correct those
7 abuses. Is that right?

8 Dr. Katz. Yes. As I noted, this is not TAA. This
9 is using the TAA legislative vehicle, but it is not just
10 the same old TAA.

11 The Chairman. You have a statute for us.

12 Dr. Katz. Yes.

13 The Chairman. Do we have the statutory language?

14 Dr. Katz. Yes. We have given staff statutory
15 language.

16 The Chairman. So, we have a statute here. Good.
17 Fine.

18 Dr. Katz. And the main criticisms the Inspector
19 General made are: 1) the disconnect between the training
20 and income support and the large number of waivers,
21 which is something we have dealt directly with; 2) the
22 delays in certifying people for the program, which is a
23 second aspect that we have directly done; 3) the
24 ineffectiveness of the training because of the lack of
25 up-front services, and we are providing directly the up-

1 front services in this program.

2 So, this is directly responsive, both to the
3 Inspector General's report, as well as to research on
4 what works for dislocated workers involving the job
5 search assistance, up-front assistance, which is one of
6 the most well-established facts in the social sciences.

7 You don't have almost any other area where you have
8 six major demonstration projects in six different
9 States, all that consistently found reductions in costs
10 from up-front services and job search assistance, which
11 is rather --

12 Senator Wallop. Mr. Bradley, would you yield just
13 for an observation?

14 The Chairman. Senator Bradley yields.

15 Senator Wallop. Just quickly. It does not take
16 into account what the Inspector General really found
17 that, of the workers retrained, only 19 percent were
18 rehired in jobs that required that training and paid at
19 least 80 percent of their previous job. I mean, the
20 fact of it is, what you are talking about does not
21 address this part of the failure of that proposal.

22 Dr. Katz. No. It finds that as a fact about this
23 program about current TAA. There are two things to
24 remember. This is taking what research shows, the
25 training is effective when it is combined with the up-

1 front services, TAA, by a timely certification
2 procedure, and, by no delivery of up-front services,
3 essentially provides training to a self-selected group
4 of workers who have already exhausted Unemployment
5 Insurance benefits.

6 The second, is that the way the report does the
7 evaluation is that it is not an evaluation. What you
8 have to compare is, how would this worker have done if
9 they had TAA versus if they did not have TAA? And this
10 does not do a comparison.

11 There are workers who have exhausted their UI
12 benefits, on average, and lose 50 percent in wages
13 relative to what they previously had before. If you
14 look at the results here, they actually suggest some
15 improvement over that. That is not an accurate way to
16 assess a program.

17 I agree, we would like it that if all workers who
18 were displaced instantly got back to what they were
19 earning before. But the fact that jobs do have specific
20 investments suggest that is not something one can make,
21 and that is not the right way to evaluate a program.

22 The Chairman. Fine. Fine.

23 Senator Bradley. If I could, a second question,
24 just to pick up on an earlier point you made. You are
25 suggesting that this be authorized for 18 months, and

1 you gave some figure that was 10,000 to 15,000
2 displacements in later years, I thought you said.

3 Dr. Katz. On average.

4 Senator Bradley. Oh. But what would be the
5 displacement that you assume in the 18-month period?

6 Dr. Katz. In getting our estimate of the cost, we
7 gave ourselves a cushion and we went higher than we
8 thought it actually would, and we said about 11,000,
9 12,000. Basically, 90 million divided by 8,000 is the
10 number. Yes. I do not have exact numbers in front of
11 me. It is between 11,000 and 12,000.

12 Senator Bradley. And your intention is to have a
13 more comprehensive proposal ready by when?

14 Dr. Katz. By the beginning of next year.

15 The Chairman. Thank you. Senator Grassley.

16 Senator Grassley. Thank you, Mr. Chairman.

17 My question is, as I had an amendment that was
18 adopted several years ago to the Trade Adjustment
19 Assistance Act in regard to farmers, meaning family
20 farmers as well as farm workers, as to whether or not
21 they are included in your definition of worker.

22 Dr. Katz. The answer is, whatever is in the current
23 Trade Adjustment Act law that is referred to. So,
24 whatever the current definition is would be the
25 definition here.

1 Senator Grassley. Thank you. Thank you, Mr.
2 Chairman.

3 The Chairman. Senator Chafee.

4 Senator Chafee. Mr. Chairman, there are two points
5 I would like to make. First, from my knowledge of what
6 has taken place, Trade Adjustment Assistance, and,
7 indeed, job training has not worked very well;
8 certainly, it has not worked to our expectations.

9 Second, there are far more workers that are going to
10 be dislocated by the defense cut-back than are ever
11 going to be dislocated by NAFTA, and they are a group
12 that we have got to be thinking about.

13 It seems to me that we want a program that actually
14 works and is going to take care of all Americans. We
15 have got to think about those who are dislocated by the
16 defense cut-backs, which we all applaud, but many, many
17 citizens in all of our States, and particularly in mine,
18 are heavily affected by those defense cut-backs.

19 So, therefore, I think there is merit in having this
20 cut-off date to keep the pressure on these people to
21 come up with the program that they have pledged they are
22 going to come up with. Now, when they say they are
23 going to come up with a program by, what did you say,
24 the beginning of next year?

25 Dr. Katz. Yes.

1 Senator Chafee. That is a pretty good promise,
2 unless you discount everything this administration says.

3 Senator Riegle. Would the Senator yield at that
4 point? I mean, say they come up with a program. Maybe
5 it is a good one; maybe it is not. That does not get it
6 enacted. And, as you well know, there are enough ways
7 for people who disagree--and there are a number who do
8 in the House and Senate--to keep any program, whenever
9 it is proposed, from actually making its way into law.

10 Senator Chafee. Yes. That is right. You can say
11 that forever.

12 Senator Riegle. But if you have got a displaced
13 worker out there who has got to feed a family and try to
14 hold their lives together, and they have lost their
15 job --

16 In fact, some of the jobs we are losing are in the
17 defense industry. There is a very celebrated case of
18 Hughes, a defense contractor, having moved out of
19 California and gone to Mexico. So, some of the movement
20 of jobs to Mexico are defense jobs right off U.S.
21 defense contracts. So, that is part of this problem
22 that you --

23 The Chairman. I am not sure we can resolve this,
24 Senator.

25 Senator Chafee. I would just like to say one thing.

1 First, Hughes moving to Mexico has nothing to do with
2 NAFTA. They have gone.

3 The Chairman. Right.

4 Senator Chafee. And, second, it seems to me that,
5 under your theory, you should make this program last for
6 10 years and take care of everybody. But I think there
7 is merit in having this deadline that they have got to
8 meet. I have some confidence.

9 The Chairman. Good. On that note, I am going to
10 hold it right there.

11 (Laughter)

12 The Chairman. As Chair, I am trying to disassociate
13 my own views from the role of moving the work of the
14 committee forward. In that case, since we are just
15 trying to put together a document that we will discuss
16 with the Committee on Ways and Means, send forward to
17 the administration, that will then be sent back to us, I
18 would like to propose, unless there is an objection--I
19 think not, on the part of the former Chairman--that we
20 adopt the staff recommendation with the several caveats;
21 Ambassador Yerxa has suggested some further discussion.
22 They do not seem to be very important.

23 And I believe Senator Conrad had some
24 considerations. He is not here, but we can take care of
25 them. Senator Rockefeller, Senator Conrad had some

1 thoughts on the staff recommendations that we can
2 probably work out, do you not think?

3 Senator Rockefeller. Mr. Chairman.

4 The Chairman. Sir.

5 Senator Rockefeller. Are you referring, previous to
6 the worker training?

7 The Chairman. Yes. The staff recommendations.

8 Senator Rockefeller. Previous to worker training.

9 The Chairman. What we went through before we voted.
10 On point 14, grounds for invoking extraordinary
11 challenge procedures, he had some language.

12 Senator Rockefeller. But this approval on worker
13 training, one would still have the right to offer --

14 The Chairman. We go, next, to that.

15 Senator Rockefeller. All right.

16 Senator Grassley. Mr. Chairman.

17 The Chairman. Senator Grassley.

18 Senator Grassley. Well, I assume that your
19 statement would include the reservation I had about 24.

20 The Chairman. Yes, sir. Yes, sir. Senator Wallop.

21 Senator Wallop. I would just ask, as part of the
22 discussion, that we put into the record the Washington
23 Post article from the 8th of October called "NAFTA and
24 Trade Are Tiny Parts of a Job Revolution."

25 The Chairman. Without objection.

1 [The information appears in the appendix.]

2 Senator Wallop. Many things were said that sort of
3 put to rest a few wild ideas.

4 The Chairman. If there is no further discussion, I
5 would propose that the committee approve the staff
6 recommendations, with the exceptions noted. Is there a
7 second?

8 Senator Packwood. Second.

9 The Chairman. All those in favor, say aye.

10 (A chorus of ayes)

11 The Chairman. Those opposed?

12 (No response)

13 The Chairman. The ayes have it.

14 Now, are we prepared in our heads here to take up
15 the question of approving the Transitional Worker
16 Adjustment proposal, the Worker Security Act? The
17 Majority Leader might have a view on this.

18 Senator Mitchell. Mr. Chairman, I have a general
19 statement. I was unavoidably detained in getting here
20 this morning.

21 The Chairman. Would you like to make that
22 statement?

23 Senator Mitchell. If I might do that.

24 The Chairman. Would you do so?

25 Senator Mitchell. And then a brief comment.

1 The Chairman. Everyone else does.

2 Senator Mitchell. I just do not want to infringe on
3 the committee's action of making good progress. It is
4 very important. But I would like to say a couple of
5 words on the general subject --

6 The Chairman. Please. Please.

7 Senator Mitchell. -- and then, on the overall
8 concept of what are appropriate amendments.

9 Mr. Chairman, first, I thank you for holding this
10 mark-up and moving promptly and diligently on this
11 legislation. The President has requested that the
12 implementing legislation be ready to be introduced by
13 November 1st, and I know that he, and all members of the
14 administration and all who support the effort are
15 grateful for your diligence in attempting to accommodate
16 that request.

17 I believe that the North American Free Trade
18 Agreement is one of the most important issues that this
19 Congress will address. In this post-Cold War world, the
20 United States must actively develop foreign markets for
21 U.S. goods and services. Our trading partners are doing
22 so, and the United States cannot afford to allow our
23 competitors to surge ahead in emerging markets.

24 The North American Free Trade Agreement presents to
25 the United States an opportunity to create the biggest

1 market of the world, an economy of \$6.5 trillion and 370
2 million people. The agreement ensures access to the
3 expanding market in Mexico, our third-largest trading
4 partner, and, hopefully, future access to growing
5 markets in Central and South America. We should not
6 abandon this opportunity.

7 The committee is now considering important
8 legislation that is central to the implementation of the
9 agreement. We must carefully consider the impact of the
10 North American Free Trade Agreement on all sectors of
11 our economy. We should make those necessary changes to
12 domestic law which will help ease the transition to both
13 U.S. companies and American workers.

14 This agreement is in the best interest of the
15 Nation, and, I believe, of my State. I will leave to
16 each Senator the judgment as to his own State. I urge
17 that we continue to work diligently on this legislation,
18 and that the Senate may vote to approve it before we
19 adjourn this year.

20 Mr. Chairman, I know there has been some question
21 about amendments that will be offered. I hope to have
22 one myself. I do want to make a general statement which
23 I believe I must make in my position as Majority Leader.
24 That is the background of this comment.

25 As every member of this committee knows, in the

1 Senate there are precedents that give substantial rights
2 and protections to the Minority. Principal among
3 protections to the Minority are the rights of unlimited
4 debate and the unrestricted right of amendment.

5 The fast-track procedures of trade agreements are an
6 extraordinary exception to these rules to provide for
7 the consideration of trade agreements and implementing
8 legislation under strict time limits, with no
9 amendments.

10 In no other circumstance do we have such restrictive
11 procedures. This is even more restrictive than the
12 rules that apply to the debate of budget reconciliation
13 measures. Reconciliation is debated under strict time
14 limits, but there, at least, amendments have been made.

15 We all have a stake in assuring that Senate rules
16 are preserved and that fast-track trade legislation is
17 not used as a way to circumvent Senate rules of
18 accomplishing, in fast-track legislation, what could not
19 be accomplished under normal procedures, or which might
20 be more difficult and time consuming under normal
21 procedures.

22 We have decided, collectively--appropriately, in my
23 judgment--to create an extraordinary exception in the
24 law for trade agreements and the implementing
25 legislation accompanying those agreements. We must be

1 careful not to use those extraordinary procedures to
2 pass legislation not directly related to or appropriate
3 to the implementing legislation.

4 Mr. Chairman, I believe strongly that I have a
5 responsibility to make that case, and we have to at
6 least consider that standard as we proceed.

7 The Chairman. The Majority Leader, raises a very
8 powerful point, that we are dealing in a precarious way.
9 We are still here 61 years after the event dealing with
10 the aftermath of Smoot-Hawley, that singular event,
11 which had such awful, stern consequences.

12 Do I take it that, in your very judicial manner when
13 you make such statements, you are saying that a Trade
14 Adjustment Assistance or Worker Training, whatever you
15 want to call it, the National Security Bill, does not
16 properly belong on a fast-track legislation referring to
17 tariffs and trade?

18 Senator Mitchell. No, Mr. Chairman. I am not
19 making that case with respect to any specific amendment.
20 I am simply asking the committee to keep the special
21 procedure in mind as we consider amendments.

22 The Chairman. Right.

23 Senator Mitchell. Everyone here recalls what
24 occurred with respect to the reconciliation procedure.
25 Over time, the definition of what was appropriate to it

1 was loosened, and, as a result, reconciliation came to
2 be as a vehicle for acting legislation wholly unrelated
3 to the central --

4 The Chairman. Senator Byrd moved to amend that.

5 Senator Mitchell. That is right. So, I merely
6 raised this because I believe I have an institutional
7 responsibility to ask that it be kept in mind as we
8 evaluate amendments.

9 The Chairman. And we do. There is no better time
10 than now. Senator Bradley has asked to make a
11 statement.

12 Senator Bradley. Mr. Chairman, I think that I have
13 not really focused on it quite in the way that the
14 Majority Leader has. I think it is very helpful,
15 frankly, as a guide to us as we consider amendments.

16 For example, on the issue at hand, Trade Adjustment
17 Assistance, a number of Senators have made points that,
18 well, we have a lot of displacement from the shrinking
19 defense budget.

20 It seems to me that Trade Adjustment Assistance, as
21 it relates to NAFTA as a part of the implementing
22 legislation, would, clearly, be consistent with what the
23 Majority Leader said. Trade Adjustment Assistance that
24 was much bigger that related to defense cuts would not
25 be.

1 Any kind of amendments or suggestions in the
2 implementation legislation that relate to U.S.-Mexico-
3 Canada, seems to me to be appropriate. Legislation that
4 would relate to world trade, however, would be more
5 suspect, as I hear what the Majority Leader has said. I
6 think that certainly will guide how I feel about an
7 amendment.

8 The Chairman. Senator Baucus, the chairman of the
9 subcommittee.

10 Senator Mitchell. Mr. Chairman, if I could just
11 make the additional point that we all recognize, of
12 course, that definitions are subjective. Directly
13 related to is a clause-appropriate word that we can each
14 interpret in our own way.

15 Again, I am not trying to render judgment on a
16 particular amendment, I am merely asking that we try to
17 interpret them in a way that is logical, consistent and
18 does not come back to haunt us.

19 The Chairman. Well, could I ask, if Senator Baucus
20 would indulge me, have we ever added trade adjustment
21 assistance, in the generic sense, to a fast-track bill?

22 Ms. Miller. Mr. Chairman, Trade Adjustment
23 Assistance was last done in the 1974 Trade Act, and then
24 again in the 1988 Trade Act. It was already in place,
25 so I do not believe when we did the Canada Free Trade

1 Agreement or the Tokyo Free Trade Agreement we did.

2 The Chairman. But it was originally part of a fast-
3 track legislation.

4 Ms. Miller. No. No, Mr. Chairman. It was not.

5 The Chairman. I am not aware that it was.

6 Ms. Miller. It was not.

7 The Chairman. So, this was to establish a
8 precedent. Would it, or would it not?

9 Ms. Miller. It would be a precedent in terms of
10 worker adjustment assistance.

11 The Chairman. Would it be a precedent with regard
12 to any other substantive legislation not related to aid?

13 Ms. Miller. No. It would not be a precedent in
14 terms of items that are not directly related to the
15 trade agreement.

16 The Chairman. Fine. I will get back to the
17 committee in one second. We have never put an income
18 tax provision on a fast-track in the mode of
19 reconciliation, have we?

20 Ms. Miller. Mr. Chairman, the 1979 Trade Act did
21 include provisions that I believe were not directly
22 related to the Tokyo Round Agreement.

23 The Chairman. It did?

24 Ms. Miller. Yes, it did.

25 The Chairman. Mr. Figel, go through that book fast.

1 (Laughter)

2 Senator Riegle. Mr. Chairman, on that issue, before
3 you leave it, unless I am forgetting something, we have
4 not had a lot of fast-track. Fast-track is something
5 that is relatively new. What I have just heard Ms.
6 Miller say, is that when we did trade packages in the
7 past we, in fact, did deal.

8 The Chairman. That is a question of fact, and we
9 are going to ask our counsel to work at it.

10 Senator Baucus is recognized.

11 Senator Baucus. Thank you, Mr. Chairman.

12 Mr. Chairman, I think the Leader made a very good
13 statement. We all sometimes wander from proper
14 legislative process here, and I think it is very proper,
15 and it is good, and helpful to have made that statement.
16 It is very difficult.

17 Each of us has a different view of what these words
18 mean, appropriate, directly related, and so forth. But
19 it is proper to keep the context of those terms in mind
20 defined, certainly, in the context of NAFTA.

21 It is also important to remember, somewhat, the
22 point that Senator Riegle made, that there are not many
23 opportunities for amendments. For example, there are
24 not many trade bills. I guess we did pass fast-track
25 earlier this year, but there have been no other trade

1 bills, to my recollection.

2 Also, it is important to remember that we are not
3 here legislating, we are really making recommendations
4 to the President. The President will submit his
5 language to the Congress around November 1st, and that
6 is the package we vote on up or down.

7 So, any provisions we put in here is a provision
8 that the administration, if it wanted to, could not add,
9 take out, or whatever. This process we are going
10 through here is sort of an informal process. We are
11 working with the administration.

12 The Chairman. Yes, sir. But if we suggest that we
13 would be willing to have provision X or Y, and the
14 administration wants it, they will send it back and then
15 we can amend.

16 Senator Baucus. That is right. My point is, we
17 could suggest something. And they may not want it, and
18 do not have to send it back.

19 The Chairman. But we have here an item they want.

20 Senator Baucus. I am talking generally.

21 The Chairman. Yes. Sure. Sure.

22 Senator Baucus. Generally.

23 The Chairman. Absolutely. Senator Boren, and then
24 Senator Roth.

25 Senator Boren. Just very briefly. I certainly

1 applaud what the Majority Leader said, and I agree with
2 it strongly, we should not abuse this procedure. I also
3 agree with what Senator Bradley said. I think as long
4 as we are dealing here with trade adjustment that is
5 targeted to NAFTA itself rather than a larger program,
6 that it is relevant, it is appropriate.

7 And I think whatever has happened before should not
8 be a precedent that binds us, because what has been said
9 is that it was moot when the Canadian agreement came up
10 because the Trade Adjustment Assistance was already in
11 effect.

12 So, there was at least the assumption that it would
13 apply to that and, therefore, take care of the problem.
14 So, I think in this case, as long as we keep it narrowly
15 focused in terms of the scope of it, that it would be
16 relevant to this. And I think it would be important
17 that it be included in this, because I think it is an
18 integral part of the overall balance of the package.

19 So, I would hope we would not feel ourselves
20 necessarily bound by what happened before because the
21 circumstances were different. I think it is related
22 here, as long as it is kept within the sort of scope
23 that Senator Bradley described.

24 The Chairman. Senator Roth.

25 Senator Roth. Mr. Chairman, I would just add one

1 thing to what Senator Boren has said, and that is the
2 point I made earlier, that both this administration and
3 the prior administration made the commitment that there
4 would be an appropriate trade adjustment legislation to
5 impact on this agreement. So, it seems to me that it
6 falls within the boundaries set out by our leader, and
7 that this should be included as part of the package.

8 The Chairman. Very well. Very well. Ambassador,
9 you seem to want to comment.

10 Ambassador Yerxa. Mr. Chairman, if I could just
11 make one observation, because I think I would want it to
12 be clear that the administration is extremely mindful of
13 the constraints that the Majority Leader has just
14 indicated.

15 As we said earlier to you, the fast-track really is
16 an historic procedure which is recognition of a
17 practical problem that is in the separation of powers
18 between the President and the Congress. International
19 trade is an area where both branches have
20 responsibilities.

21 The Congress clearly has the authority to regulate
22 interstate and foreign commerce; the President clearly
23 has the authority to negotiate on behalf of the United
24 States.

25 We do not want to suggest any amendments to this

1 legislation which would not be considered by the
2 Congress to be necessary or appropriate for
3 implementation of this trade agreement, and I think the
4 constraints he has mentioned are ones which the
5 administration very clearly recognizes and would want to
6 adhere to.

7 The only other point I would make is, you raised the
8 question about previous fast-track legislation. I am
9 somewhat familiar with the precedents. In 1979, the
10 most comprehensive fast-track legislation was the
11 legislation implementing the Tokyo Round.

12 And there were a number of general legislative
13 provisions added to that bill, but that was an agreement
14 that involved the entire world. That is, it was a trade
15 agreement covering a number of areas and dealing with
16 the entire GATT community.

17 We are mindful of the fact that, in this particular
18 exercise, we are dealing with a regional arrangement, a
19 trading arrangement with two other countries, and that
20 has to affect the decision as to what is appropriate for
21 implementation for that agreement.

22 The Chairman. Fine. Then I am going to propose
23 that the committee decide whether the Transitional
24 Worker Adjustment proposal for NAFTA-impacted workers,
25 for which we have a fact sheet here and there is

1 statutory language coming, for which we have heard from
2 Dr. Katz the general range of costs and impact, and Ms.
3 Miller has given us the CBO estimates, if it is
4 agreeable to the Ranking Member, we put it to the
5 committee, do they wish to adopt this measure or do they
6 not?

7 Senator Packwood. Are you talking about adopting it
8 as Senator Riegle wants to expand it, or just as the
9 administration proposed?

10 The Chairman. As the administration proposed.

11 Senator Riegle. That preserves my right to offer
12 amendment.

13 The Chairman. That is exactly so. Yes.

14 Senator Rockefeller. And that would be the same,
15 also, with my case?

16 The Chairman. Oh, no.

17 (Laughter)

18 The Chairman. I move the adoption of the
19 Transitional Worker Adjustment proposal.

20 Senator Packwood. Second.

21 The Chairman. And a second. All in favor, say aye.

22 (A chorus of ayes)

23 The Chairman. Those opposed?

24 (No response)

25 The Chairman. The measure is adopted.

1 Senator Riegle.

2 Senator Riegle. Thank you, Mr. Chairman. I will
3 try to be brief in doing this. Before I offer the
4 amendment, though, I would like to insert something in
5 the record. Senator Chafee and I were in a brief
6 colloquy earlier about defense contracts being taken to
7 Mexico.

8 And the one I want to insert is from the Journal of
9 Commerce from September 7th of this year. It is a
10 wonderfully interesting story as to how Hughes Aircraft
11 is now building in a Mexican plant a very sophisticated
12 part of the power system of one of our missiles. These
13 items are called AMRANDS. Each one costs \$631,000
14 apiece. But the point is, in making it and putting it
15 in the record, these are not things that we are building
16 in Mexico to sell to Mexicans.

17 I mean, we are taking them down there to take
18 advantage of cheap labor, which is laid out in this
19 story. But it is an illustration of how even the
20 defense conversion, the defense down-sizing, the
21 movement of jobs from the United States to Mexico is
22 occurring even in the defense area. It is just
23 important because this is a topical story to be in the
24 record.

25 The Chairman. We will place that in the record,

1 along with Senator Wallop's.

2 [The amendments of Senators Riegle and Wallop appear
3 in the appendix.]

4 Senator Riegle. Now, with respect to the worker
5 retraining, what I would like to, first, propose here,
6 is that this end date of June 31, 1995 be taken out and
7 that we not put in an end date, recognizing, as we were
8 discussing with Senator Roth earlier, there is no
9 guarantee that we will have a comprehensive program in
10 place at some future date. Perhaps we will. I hope we
11 will. I hope it will be a good one.

12 But, if so, then that would, in effect, nullify the
13 meaning of my taking the date away anyway, because the
14 people would be picked up in that other way. So, the
15 proposal that I would like to make is that we take out
16 this end date of June 31, 1995, which would otherwise
17 terminate the worker adjustment program for somebody who
18 loses their job to Mexico.

19 Senator Roth. Would the Senator yield?

20 Senator Riegle. Yes. Of course.

21 Senator Roth. I am obviously of the same mind, with
22 one change. I would urge the Senator to extend the
23 program for five years, which would be at a cost of \$47
24 million, according to the Congressional Budget Office.

25 But we do have a specific date. I think that gives

1 us sufficient time to move, if necessary, if the plans
2 and hopes of the administration for a comprehensive plan
3 does not take place. I would urge, and would like to
4 co-sponsor if you would, a five-year extension.

5 Senator Riegle. Well, that would be certainly
6 preferable to June 31, 1995. I think it is unclear as
7 to where we will be five years out, because the
8 hydraulics of these wage differentials are so vast that
9 we have never gone through anything quite like this.

10 Senator Roth. I think it makes it more precise. It
11 does give the opportunity for Congress to act.

12 The Chairman. Could I just inquire of our counsel
13 and of Dr. Katz, we are establishing, here, an
14 entitlement. This is not simply an appropriation which
15 will run its course and when it is spent it will be
16 ended. This is an entitlement.

17 Ms. Miller. That is correct, Mr. Chairman.

18 The Chairman. If it should turn out a million jobs
19 are lost, we will have to find the money for a million.

20 Ms. Miller. That is correct, Mr. Chairman.

21 The Chairman. Or, if one job is lost. So, that is
22 understood.

23 Ms. Miller. If I could mention one other thing
24 related to Senator Roth's proposal. As I understand it,
25 what you would do is to propose that the termination of

1 this program coincide with the termination of the
2 general Trade Adjustment Assistance program, which also
3 was recently reauthorized for five years. So, I just
4 wanted to point out to you that there is a relationship
5 between the two programs in your proposal.

6 Senator Riegle. I kind of like that idea, and I
7 would support that modification.

8 The Chairman. All right. And, of course, it is
9 possible that when the general proposal comes to us in
10 January, why, it could include provisions that, if
11 enacted, these are the matters that will lapse. It can.

12 Senator Chafee. Mr. Chairman.

13 The Chairman. Senator Chafee.

14 Senator Chafee. The Senator dropped his elusive
15 date of June 31st?

16 The Chairman. Yes.

17 Senator Riegle. The June 31st date of 1995, which
18 is now in the proposal, would now be dropped out and it
19 would be replaced by the date that would be five years
20 into the future, as Senator Roth has just said.

21 The Chairman. The Chair rules that July 31st is not
22 an elusive date.

23 Senator Chafee. He said June, June 31st.

24 Senator Riegle. Oh. I beg your pardon. I beg your
25 pardon. A point well taken.

1 And, if I may, while I have the floor, the
2 Washington Post story on the move of the Hughes contract
3 to Mexico, which is a much tougher story, was actually
4 this month, October 6th, in addition to the Journal of
5 Commerce article. This is a real problem. And I say to
6 my friend from Rhode Island, the movement of these
7 defense contracts to Mexico is something that ought to
8 be a concern to him.

9 The Chairman. The Senator from Michigan has made a
10 proposal which has been, in effect, amended from the
11 Senator from Maryland, and that has been proposed.

12 Senator Roth. Delaware.

13 The Chairman. Delaware. Excuse me. I am sorry.
14 So, it is open to discussion. Senator Bradley.

15 Senator Bradley. Mr. Chairman, I would like to kind
16 of get a feel from other people on the committee how
17 they feel about Senator Riegle's amendment, but I also
18 would like to know, what is the administration's
19 position on the Riegle amendment?

20 Senator Riegle. The Riegle-Roth amendment.

21 Senator Bradley. I am sorry. The Riegle-Roth. The
22 R² amendment.

23 Dr. Katz. Well, certainly, our preference is the
24 18-month program moving into a comprehensive one. We

1 understand the concern. We really do want to have the
2 comprehensive one. I cannot formally say that we would
3 accept this amendment.

4 But I can say that, if there is going to be an
5 amendment about going beyond that date, that we would
6 certainly like to see in it specific language that, if a
7 comprehensive program is passed before the date it is
8 extended to, that this would be intended to merge into a
9 comprehensive program.

10 Senator Daschle. Mr. Chairman, I have a question.

11 The Chairman. Just one second. Senator
12 Rockefeller.

13 Senator Rockefeller. Dr. Katz has, in a sense,
14 referred to it. When we had our last meeting on this, I
15 expressed a very deeply felt frustration about the way
16 we do, or, rather, do not do worker training and
17 retraining in this country.

18 I think it is pervasive and massive. I have a lot
19 of confidence that our Department of Labor is going to
20 come up with a new and better way of doing it, and they
21 had better.

22 But I just want to make sure that there is no
23 implication if we do this, that, somehow, the pressure
24 is off in terms of coming up with an entirely new, much
25 more intelligent, specific--as suggested by Senator

1 Wallop--and effective way of doing this.

2 Dr. Katz. We think, for all dislocated workers as
3 well as these workers, the comprehensive program will be
4 more effective.

5 The Chairman. Dr. Katz. Dr. Katz.

6 Dr. Katz. Sorry.

7 The Chairman. The Chair will recognize you.

8 Dr. Katz. Very, very sorry.

9 The Chairman. Dr. Katz.

10 Dr. Katz. I apologize. I am used to academic
11 settings where interrupting is a badge of honor. I have
12 not quite learned manners here yet.

13 We are going ahead with a comprehensive program,
14 regardless of what happens here. This is a true
15 commitment and we think that a categorical program,
16 inherently, is less effective because of the need of
17 certification processes, the information problems that,
18 for this group of workers as well as for all workers, a
19 comprehensive program will be a more effective approach.
20 And I apologize very much.

21 The Chairman. Thank you. Senator Daschle.

22 Senator Daschle. Mr. Chairman, I was just going to
23 ask whether this amendment, or any like it, would be
24 subject to the same rules with regard to offsets that
25 other amendments are in other settings. Is this, in

1 other words, required to have an offset? And, if so,
2 does it have one?

3 The Chairman. I would think it would have to have
4 one. We would have to address the offset once we have
5 decided to make the change. Does anyone think otherwise
6 at the table?

7 Senator Packwood. I like the idea, Mr. Chairman.

8 The Chairman. It has to have it. The answer is,
9 yes.

10 Senator Packwood. It should have it.

11 Senator Daschle. That was my point.

12 The Chairman. That is a fair point, too. Who can
13 compute that?

14 Senator Riegle. Well, Mr. Chairman, would you yield
15 just on that point?

16 The Chairman. Yes.

17 Senator Riegle. You are going to require other
18 offsets, too, because you have got Customs duties. So,
19 in a sense, you are going to have offsets of an amount
20 of money that will have to be not just this item, but
21 other items. So, maybe you want to do it piecemeal.

22 The Chairman. In truth, the matter was presented to
23 us. How did you propose to pay for the original?

24 Ambassador Yerxa. Mr. Chairman, I think the point
25 just made by the Senators is very accurate, as far as we

1 are concerned. The administration is proposing an
2 offset of the entire cost of the implementing
3 legislation --

4 The Chairman. So, you are asking that we decide
5 what we want to do and then you will tell us how to pay
6 for it.

7 Ambassador Yerxa. That is correct. That is
8 correct, Mr. Chairman.

9 The Chairman. I think that is a fair proposal.
10 Senator Danforth. Mr. Chairman.

11 The Chairman. No, no. Just a second. Senator
12 Wallop was next, then Senator Danforth.

13 Senator Wallop. Mr. Chairman, I do not think it is
14 a fair proposal. I think, before voting on it, we ought
15 to at least have an idea as to the volume we are going
16 to have to offset.

17 The Chairman. Absolutely.

18 Senator Wallop. I do honestly believe two things
19 about it. One, is that it will take the pressure off,
20 and, two, that it will extend an entitlement, not to
21 training, but to income supplement. We know already
22 that this is not a successful program.

23 The Chairman. Then let us see if we cannot work it
24 out. If the committee wishes to act separately on this,
25 we will act separately on this. Can we get a

1 computation about what the five-year cost of the Riegle-
2 Roth amendment would be?

3 Ms. Miller. Yes. Yes. Mr. Chairman, the
4 additional cost of the Riegle-Roth proposal would be \$36
5 million over the five years, based on the preliminary
6 estimates that we have from CBO.

7 The Chairman. So, that is \$36 million added to the
8 trivial \$11 million?

9 Ms. Miller. Well, that is added to the overall cost
10 of the bill. The administration's funding proposal is
11 supposed to cover the rest of the cost of the bill,
12 whether it is tariff reductions or the trade adjustment.

13 The Chairman. No, no, no. You said \$11 million,
14 did you not?

15 Dr. Katz. \$11 million. There are two parts of the
16 bill: there is the coverage of imports and the coverage
17 of plant relocation. There is \$130 million over five
18 years that CBO has scored related to imports, in my
19 understanding.

20 The Chairman. No. What we are talking about here
21 is this measure. You said \$11 million.

22 Dr. Katz. \$11 million is the plant --

23 The Chairman. So, this will add \$25 million?

24 Ms. Miller. This will add \$36 million.

25 The Chairman. Add \$36 million to the \$11 million.

1 Ms. Miller. Adds \$36 million to the \$11 million
2 that is already scored to the administration proposal.

3 The Chairman. The Chair rules that it comes to \$47
4 million.

5 Ms. Miller. Correct.

6 The Chairman. Fine. Now, how do we want to
7 proceed? Senator Danforth.

8 Senator Danforth. Well, I think this is fine. I
9 just want to make sure that the problem that everybody
10 knows about that we have, particularly with the House,
11 in coming up with having to pay for the whole program,
12 is not exacerbated by this, because this is extra money
13 that is not included in the amount that we already know
14 that we have to somehow raise. It may be diminimus. It
15 probably is. This is a spread over five years. This is
16 not a whole lot of money. But I just want to make sure
17 that whatever we are going to do is not made worse by
18 doing this.

19 The Chairman. A fair point. I think Senator Boren
20 asked --

21 Senator Danforth. Could we get an answer, maybe, to
22 that?

23 The Chairman. Yes. Ambassador Yerxa, would you
24 want to give us an answer?

25 Ambassador Yerxa. Mr. Chairman, as counsel has

1 pointed out, this is a preliminary estimate at this
2 point from CBO. And, of course, as you move towards
3 finalization of the recommendations, presumably together
4 with the Ways and Means Committee which, yesterday,
5 considered this matter and adopted the administration
6 proposal, we would have to have much firmer scoring of
7 exactly what the budget implications are --

8 The Chairman. Right. Right.

9 Ambassador Yerxa. -- because, ultimately, the
10 entire package has to balance.

11 The Chairman. We know you are in a range here.

12 Ambassador Yerxa. So, with that caveat that this is
13 preliminary at this point, and as Mr. Katz has said, the
14 administration can indicate --

15 The Chairman. You are in a range here.

16 Ambassador Yerxa. Yes.

17 The Chairman. This is not \$4 billion.

18 Ambassador Yerxa. No. That is correct.

19 The Chairman. Senator Daschle.

20 Senator Daschle. Mr. Chairman, I guess I did not
21 realize the diminimus nature of it. It would seem to me
22 that, mechanically, it would make more sense to consider
23 all of the amendments and, en bloc, consider what kind
24 of an offset we need at the end.

25 The Chairman. Senator Chafee.

1 Senator Chafee. Mr. Chairman, I find this is a sort
2 of Never-Never Land here. I have a lot of respect for
3 Ms. Miller, but to suggest anything the United States
4 Government does that lasts for five years costs only \$36
5 million is fantasy.

6 (Laughter)

7 Senator Chafee. We cannot help local libraries for
8 that amount. I do not know where you are getting these
9 figures.

10 Second, it seems to me we hearken back to the
11 warning that the Majority Leader gave us, that when you
12 embark on a program that is going to last for five years
13 under a special procedure that prevents any amendment,
14 is really abusing the fast-track procedure. I really
15 have grave concerns. I want to commend the Majority
16 Leader for bringing that to our attention.

17 I can understand the broad proposal that the
18 administration originally came forward with. They had
19 promised that, and we are going to do something, and
20 they are going to have their program. After all, we are
21 allowing them a year and a half, through July 1st, 1995.
22 So, the idea that they are not going to come up with
23 something and to say, oh, no, instead we are going to do
24 something that lasts for five years --

25 The Chairman. Senator, I do not think that is what

1 the sponsors proposed, but that could be an
2 interpretation. Ms. Miller is bound by the CBO, as we
3 all are. And how that happened is another story and we
4 will not get into that.

5 Senator Mitchell. Mr. Chairman, could I make just a
6 comment on that?

7 The Chairman. Yes, Senator.

8 Senator Mitchell. I respect Senator Chafee's
9 comment, but I think it should be noted that the
10 question of whether an amendment is appropriate goes to
11 the substance of the amendment. The committee has
12 already decided that. Whether it is 18 months or five
13 years is not a question of whether or not it is
14 approved. I just want to make that clear.

15 The Chairman. Yes.

16 Senator Mitchell. I appreciate his concern. But we
17 have already decided that it is appropriate and,
18 therefore, deciding whether it is to be for 18 months or
19 five years does not make it more or less appropriate, at
20 least in my view.

21 The Chairman. I am going to ask for last comment
22 from Senator Boren.

23 Senator Boren. Mr. Chairman, I agree strongly with
24 the comment that Senator Chafee made at the beginning.
25 I think all of us are sympathetic to having a more

1 comprehensive and more effective worker retraining
2 program.

3 My fear is that, while it might seem on the surface
4 that you are being more generous to workers by having a
5 five-year program than an 18-month program, I think, in
6 fact, it is just the reverse. I think we have all had
7 the experience that we are not very good at getting
8 things done around here in a timely fashion. Everything
9 moves us to put things off and to put off decisions.

10 And I think keeping it short, to 18 months, is a
11 much better way to make sure that we come up with the
12 kind of programs that all of us who are sympathetic with
13 worker retraining would approve. So, I, for one, feel
14 strongly that we are better to keep this to the 18
15 months, and the administration plan.

16 The Chairman. Good. Well, in the spirit in which
17 Senator Boren urged us to make decisions, I would like
18 to ask a show of hands of those who support the Riegle-
19 Roth amendment. If they would raise their hands, I will
20 count.

21 (Showing of hands)

22 The Chairman. One, two, three, four, five, six.

23 Senator Packwood. Who is six?

24 The Chairman. Again, I thought I counted correctly.
25 Up hands.

1 (Showing of hands)

2 The Chairman. One, two, three, four, five, six,
3 seven, eight.

4 (Laughter)

5 The Chairman. He was there all the time.

6 Senator Packwood. No, no. I think there is a
7 confusion as to what we are voting on.

8 Senator Bradley. I am confused.

9 Senator Packwood. We are voting, are we not, on
10 whether this is going to be a five-year program.

11 The Chairman. Right.

12 Senator Packwood. Is that the vote?

13 The Chairman. Yes. And, unless anybody objects,
14 the decision --

15 Senator Roth. Could I just make a clarification?
16 We will set it for five years unless a comprehensive --

17 The Chairman. Right. Now, listen.

18 Senator Bradley. Wait. Mr. Chairman, I think that
19 there are two questions on the floor that need to be
20 clarified.

21 Is Senator Riegle's amendment an extension for five
22 years a new program for five years, regardless of
23 whatever legislation is passed, or is it an extension of
24 five years unless a comprehensive worker retraining
25 program is passed, in which case, is it that the program

1 will be subsumed under the comprehensive program?

2 The Chairman. Can we hear from the sponsors?

3 Senator Riegle. Yes. The interpretation would be
4 the latter. In other words, what Senator Roth has just
5 said, if a comprehensive plan comes into place, is
6 enacted, it supplants the --

7 The Chairman. We are going to get very vague here.
8 But the interpretation is the latter. Is that
9 acceptable to you, Senator Bradley?

10 Senator Bradley. Yes.

11 The Chairman. All right. Now, we are going to have
12 a vote.

13 Senator Baucus. Mr. Chairman.

14 The Chairman. Senator Baucus.

15 Senator Baucus. I want to ask what we are voting
16 on.

17 The Chairman. Oh. You were out of the room,
18 Senator Baucus. We are voting on the Riegle-Roth
19 amendment, which would extend the administration
20 proposal for five years rather than for 18 months.

21 Senator Baucus. Thank you.

22 The Chairman. Unless a comprehensive proposal,
23 anticipated by the administration to be in place by June
24 30, 1995, is in place. The decision is going to be made
25 by a majority of the persons who are in the room now.

1 That is the only way we are going to do it. All right.

2 Those in favor of the Riegler-Roth amendment will
3 raise their hand, and I will count.

4 (Showing of hands)

5 The Chairman. One, two, three, four, five, six,
6 seven, eight. Those who are opposed?

7 (Showing of hands)

8 The Chairman. One, two, three, four, five, six.
9 The eyes have it.

10 Senator Riegler. Thank you.

11 Senator Breau. Mr. Chairman.

12 The Chairman. The Senator from Louisiana, Senator
13 Breau.

14 Senator Breau. Have we decided or brought up the
15 question of what we are going to do on the Customs
16 Modernization Act as part of this?

17 The Chairman. No. But it was understood that
18 proposal would be offered. Senator Hatch specifically
19 asked if it would be done, and anticipated that you
20 would do it, and it would now be in order.

21 Senator Breau. Well, I was not planning to offer
22 it as an amendment. Just, if it is before the
23 committee, is it part of this legislation?

24 The Chairman. No. Not an amendment. But we are
25 here in committee assembled. Would you like to make

1 that proposal, Senator Breaux?

2 Senator Breaux. Do you understand my question, Ms.
3 Miller?

4 Ms. Miller. Yes.

5 Senator Breaux. I want to amend it if it is before
6 the committee, but I am not planning on offering it if
7 it is not.

8 Ms. Miller. Mr. Chairman, my understanding was that
9 Senator Hatch asked that it be put before the committee
10 at the appropriate time.

11 The Chairman. And this would be an appropriate
12 time.

13 Ms. Miller. It may be that there are other
14 amendments related to the worker program that you might
15 want to address, first.

16 Senator Breaux. I will withhold --

17 The Chairman. Which we would do. Senator
18 Rockefeller, do you have something?

19 Senator Rockefeller. I do, sir. There are
20 technical amendments.

21 The Chairman. We will have order.

22 Senator Rockefeller. I will try to explain them.
23 They are technical. We have worked on these with Larry
24 Katz and Marianne Richardson, and with the staff of our
25 Chairman. In fact, I have to say, as I do this, I think

1 of the work of Chairman Moynihan, Senator Roth, and then
2 I think back to Senator Heinz.

3 And I am thinking of a hearing that Senator Heinz
4 and I had in Pittsburgh several years ago which really
5 dealt directly with this, and it is palpable in my mind
6 as I think about this.

7 It is a two-point amendment. There is a lot of
8 criticism about the extensive use of waivers in the
9 current TAA program, that they have been over-used, they
10 have allowed too many workers to avoid training.

11 What we have, now, before us, as suggested by the
12 Labor Department, is that we change the rules and
13 require workers to be enrolled in training by the 16th
14 week of their unemployment period.

15 I appreciate the intent of that time limit, but I
16 think there are unintended and unfair consequences which
17 could easily be changed. Sixteen weeks, in fact, is not
18 a long time. But, in practical terms, some workers need
19 a lot more time to get approved training, especially if
20 the only courses are being offered at community
21 colleges. I recognize this is technical. I am sorry to
22 take the time, but I need to explain.

23 The Chairman. No. Take all the time you want.

24 Senator Rockefeller. Let me just give a possible
25 example that makes it very clear. We have, let us say,

1 a glass company in West Virginia that could possibly be
2 injured by NAFTA. Let us suppose the glass plant closes
3 in March of this coming year. Workers are
4 understandably confused.

5 So, the way the deal works now is, first, they file
6 for unemployment benefits because they need help to pay
7 their mortgages and feed their families, et cetera.
8 Next, they seek federal training assistance and file
9 their petition within 50 days for NAFTA TAA.

10 The Governor has to approve the petition, and that
11 could take 10 days. Then the Department of Labor has to
12 certify that they are eligible for NAFTA TAA, which
13 could take 40 days.

14 So, we have given the worker 112 days. That is the
15 16 weeks. But we have already taken 90 days of that
16 time. And, in effect, the worker has only 22 days,
17 which is three weeks, in order to find himself a new
18 job.

19 The Chairman. Well, this is a very clear proposal.
20 I wonder if I could ask what the administration's
21 position is. Dr. Katz.

22 Dr. Katz. We have no objections to this proposal.
23 We believe the second part of it is covered, but we
24 certainly, I guess, think that if there is a delay in
25 processing, that there ought to be --

1 The Chairman. The administration has no objection
2 to this proposal. In that case, I am going to move that
3 we adopt Senator Rockefeller's proposal. Is there a
4 second?

5 Senator Packwood. Second.

6 The Chairman. I am going to ask for a voice vote.
7 Those in favor will say, aye.

8 (A chorus of ayes)

9 The Chairman. Those opposed?

10 (No response)

11 The Chairman. The amendment is adopted. Senator
12 Mitchell.

13 Senator Mitchell. Mr. Chairman, I would like, if I
14 might, to offer an amendment which is significant
15 locally. I will take just a moment to explain it.

16 The Chairman. Please do. This has been passed out.
17 It passed by me.

18 Senator Mitchell. Yes, it has been passed out. The
19 staff have been notified of it previously.

20 On July 1st of this year, Canadian Customs began
21 collecting a New Brunswick Provincial sales tax at the
22 Maine-New Brunswick border. Although this Provincial
23 sales tax is being collected at the Maine-New Brunswick
24 border on purchases made in Maine by residents of New
25 Brunswick, it is not being collected on purchases made

1 by residents of New Brunswick in neighboring Canadian
2 Provinces, Quebec, Nova Scotia, or Prince Edward Island.

3 I do not question the authority of New Brunswick, or
4 any other Canadian Province, to compose a sales or use
5 tax. However, I believe that the tax is unfairly
6 applied since it is collected on purchases made in
7 Maine, but not collected on purchases made in other
8 Canadian Provinces.

9 I brought this issue to Ambassador Kantor's
10 attention. In September, he requested formal
11 consultations with the Canadian Government under the
12 U.S.-Canada Free Trade Agreement. This has had a
13 tremendous impact on American businesses along the
14 border, some of which have suffered reductions in sales
15 of 30-40 percent.

16 My amendment is a sense of the Senate resolution
17 stating that if a Provincial sales tax is applied in a
18 discriminatory manner, then the application violates the
19 principle of national treatment under the General
20 Agreement on Tariff and Trade, and under the North
21 American Free Trade Agreement, and it calls upon our
22 Trade Representative to vigorously seek appropriate
23 remedies under the agreement.

24 The Chairman. Right. May I ask Ambassador Yerxa
25 the administration's position on this matter?

1 Ambassador Yerxa. Mr. Chairman, as the Majority
2 Leader noted, he has had conversations with Ambassador
3 Kantor about this problem. The administration is very
4 aware of the problem, and has sought consultations with
5 Canada on this matter.

6 The Chairman. Fine.

7 Ambassador Yerxa. I would like to say that, having
8 just looked at this for the first time--not that I want
9 to state an objection at this point, I think we probably
10 can work this out--we would just like a little bit of
11 time to look at the particular language, and, perhaps,
12 in consultation with staff --

13 The Chairman. Is that agreeable to the Senator?

14 Senator Mitchell. Yes, it is, Mr. Chairman.

15 The Chairman. Thank you. Senator Packwood.

16 Senator Packwood. Can I ask the Majority Leader a
17 question? Is this a situation where you basically have
18 got a border tax, and lots of people from New Brunswick
19 were shopping in Maine because the taxes were lower, and
20 maybe relatively few of them are shopping in other
21 Provinces, or it is harder to monitor? I am with you on
22 this, but is that the situation, in essence?

23 Senator Mitchell. I am not certain of the volume of
24 cross-border traffic between Provinces. I do know that
25 there is substantial traffic from New Brunswick to

1 Maine. I believe there is substantial traffic between
2 New Brunswick residents and Quebec. Quebec City and
3 Montreal are very large cities, and I believe there is
4 substantial traffic. I do not have figures measuring
5 the relative --

6 Senator Rockefeller. Mr. Chairman.

7 The Chairman. Senator Rockefeller.

8 Senator Rockefeller. I might say that, although the
9 Majority Leader sets this as a border matter, this is
10 not just a border matter, this affects interior States,
11 such as my own.

12 The Chairman. Senator Breaux.

13 Senator Breaux. Back to the Customs Modernization
14 Act. I have an amendment to it if --

15 The Chairman. We are not there.

16 Senator Breaux. You are not there yet. I just want
17 to --

18 The Chairman. I move the adoption of the Mitchell
19 amendment.

20 Senator Packwood. Second.

21 The Chairman. There is a second. Those in favor,
22 say aye.

23 (A chorus of ayes)

24 The Chairman. Opposed?

25 (No response)

1 The Chairman. The ayes have it.

2 Now, where are we?

3 Senator Grassley. Mr. Chairman, in regard to where
4 we are, are you taking the amendments in the order of
5 the text, or are you taking amendments at any time
6 anybody wants to bring them up?

7 The Chairman. Anytime anybody wishes to bring them
8 up. The measure is open to amendment.

9 Senator Grassley. Yes.

10 (Pause)

11 The Chairman. May I ask the attention of the
12 committee? Mr. Panetta has come over from the House and
13 is in a position to talk with us about the financing
14 aspects of this. I would like to suggest it would be
15 best done in Executive Session. Senator Riegle.

16 Senator Riegle. Mr. Chairman, I am very respectful
17 of your view as Chairman. But why the secrecy at this
18 hour?

19 The Chairman. Oh. I mean, it is not secrecy. It is
20 just, we will hear what he has to say and then we will
21 come right back.

22 Senator Packwood. As I understand it, it is not a
23 concluded matter. I think he wants to chat with us and
24 get it --

25 The Chairman. They have not got an answer. I

1 thought it would be fair to let him explain his dilemmas
2 and ask if we have any judgments about it.

3 Senator Riegle. Fair enough.

4 The Chairman. So, we will stand in recess at the
5 call of the Chair.

6 (Whereupon, 12:33 p.m. the meeting was recessed.)

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1 AFTER RECESS

2 (12:52 p.m.)

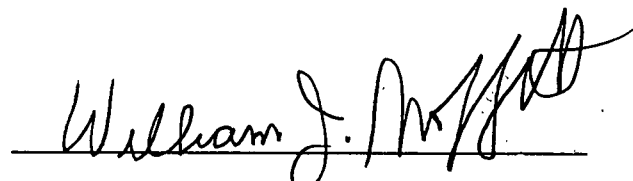
3 The Chairman. The Chair announces that the meeting
4 for this morning is adjourned. We will resume at 10:00
5 o'clock tomorrow morning on this same subject. A
6 hearing on health issues had been scheduled, but it will
7 have to be rescheduled.

8 (Whereupon, at 12:53 p.m. the meeting was recessed,
9 to reconvene at 10:00 a.m. on Thursday, October 21,
10 1993.)

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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 Committee Meeting of the Committee on
Finance, United States Senate, held on October 20, 1993,
were transcribed as herein appears and that this is the
original transcript thereof.



WILLIAM J. MOFFITT

Official Court Reporter

My Commission Expires April 14, 1994

**COMMITTEE ON FINANCE NORTH AMERICAN FREE TRADE AGREEMENT
(NAFTA) DRAFT IMPLEMENTING PROPOSAL**

Staff Recommendations

Wednesday, October 20, 1993

1. Consultations with State Governments (Article 105, p. 1-3)

Replace the bracketed language in the third paragraph on p. 1-3 with the following:

"In order to conform, to the greatest extent practicable, state laws and practices with the NAFTA, and to improve the federal-state consultative process:

"(1) the President shall consult through the Intergovernmental Policy Advisory Committee for Trade (IGPAC); and

"(2) the USTR shall establish an expanded consultative process to address particular issues that arise under the NAFTA, which shall include:

"(a) assisting the states in identifying state measures that are inconsistent with the NAFTA;

"(b) informing the states concerning any matter arising under the NAFTA that directly relates to, or may have a direct impact on, them;

"(c) providing the opportunity for the states to submit information and advice with regard to such matters, and taking into account such information and advice in formulating U.S. positions; and

"(d) involving the states, to the greatest extent practicable, at each stage of the development of U.S. positions with respect to such matters (whether they are before a committee, subcommittee, or working group established by the NAFTA or are to be decided by a dispute settlement panel).

"This federal-state consultative process does not create an 'advisory committee' subject to the requirements of the Federal Advisory Committee Act.

"Statement of Administrative Action to elaborate on this consultative process, including the designation by USTR and the states of a coordinator ('single point of contact') for state-related matters under the NAFTA."

2. Initial Implementing Regulations (Article 105, p. 1-3)

Replace the bracketed language in the sixth paragraph on p. 1-3 with the following:

"except that, at a minimum, interim regulations on rules of origin reflecting the Uniform Regulations required by Article 511 shall be issued as soon as possible and no later than the date of entry into force of the Agreement."

3. GSP Status of Mexico (Article 302, p. 3-1)

At the end of the first paragraph on p. 3-1, insert the following:

"The President shall withdraw beneficiary status under the Generalized System of Preferences program from Mexico on the effective date of the proclamation to carry out the schedule of duty reductions with Mexico."

4. Amendments to the NAFTA (Article 302, p. 3-1; Annexes 401, 403.1, 403.2, p. 4-1; Article 2202, p. 22-1)

Replace the bracketed language at the bottom of p. 3-1 with the following:

"The President is authorized, subject to consultation and layover requirements, to proclaim tariff modifications, including any acceleration of tariff staging, as may be agreed by the Parties."

Replace the bracketed language at the bottom of p. 4-1 with the following:

"The President is authorized, subject to consultation and layover requirements, to proclaim modifications to specific rules of origin in Annex 401 and to the automotive tracing requirements in Annexes 403.1 and 403.2."

Replace the bracketed language on p. 22-1 with the following:

"Changes in statutes to implement a requirement, amendment, or recommendation.

"Normal legislative procedures will apply to any changes in statutes needed for future amendments to the NAFTA.

"Proclamation authority subject to consultation and layover requirements.

"The President is authorized to proclaim --

"tariff modifications, including any acceleration of tariff staging agreed to by the Parties;

"modifications to specific rules of origin in Annex 401, and the automotive 'tracing' requirements in Annexes 403.1, and 403.2;

"modifications in provisions of the bill that enact Article 415 (rule of origin definitions) agreed by the Parties during the first year after enactment of the NAFTA Act;

"only if --

"(1) the President has obtained advice regarding the proposed action from appropriate private sector advisory committees and from the ITC;

"(2) the President has submitted a report to the House Ways and Means and Senate Finance Committees setting forth the proposed action and reasons therefor and the advice obtained; and

"(3) at least 60 calendar days have expired since submission of the report and the President has consulted the committees during this period.

"Initial proclamations authorized in the NAFTA Act (tariff modifications to implement schedules of duty reductions, basic and specific rules of origin, various customs provisions) may take effect no earlier than 15 days after the proclamation is published in the Federal Register."

5. Restrictions on Accelerated Tariff Elimination (Article 302, p. 3-2)

At the top of p. 3-2, insert the following:

"For those tariff items for which the U.S. tariff phaseout period under the NAFTA is more than 10 years, the Administration may consider a request for acceleration of the phaseout schedule only if such acceleration is not opposed by U.S. producers. If a request for acceleration has been previously denied, a new request cannot be considered (1) unless it includes new information indicating changed circumstances, and (2) if the previous request was denied in any of the preceding three calendar years or three acceleration reviews, whichever is longer.

"Statement of Administrative Action to provide additional details on the Administration's plans for implementing tariff acceleration procedures.

"Committee report to urge the Administration to press Mexico for accelerated removal of its tariffs on certain U.S. products, particularly those for which reciprocal concessions were not obtained from Mexico in the NAFTA."

6. Drawback Authority (Article 303, p. 3-4)

After the third paragraph on p. 3-4, add the following:

"Provides that any person claiming drawback must disclose to Customs whether that person has prepared or intends to prepare a NAFTA Certificate of Origin. If a Certificate is prepared after a drawback claim is filed, the drawback claimant must disclose to Customs the existence of the Certificate within 30 days, and any amount of drawback paid must be adjusted accordingly."

7. Marking Requirements for Certain Pipes and Fittings, Compressed Gas Cylinders, and Manhole Rings and Covers (Article 311, p. 3-7)

Strike the last sentence in the paragraph on p. 3-7, and replace with the following:

"Also amends section 304 to provide that certain pipes and fittings may be marked by means of continuous paint stenciling in addition to the methods provided in section 304(c)(1) and that certain manhole rings or frames may be marked with 'an equally permanent method of marking' in addition to the methods provided in section 304(e). Makes conforming changes to section 304(c)(2)."

8. Report on Automotive Trade (Annex 300-A, p. 3-9)

At the bottom of p. 3-9, insert the following:

Findings.--The Congress finds that automotive trade is one of the most restricted areas of trade between the United States and Mexico; and that the NAFTA's elimination of Mexican barriers to such trade should increase substantially U.S. automotive exports (as reflected in estimates by the U.S. Department of Commerce and the U.S. auto industry).

"Reports.--For each of the first five years of the NAFTA, USTR shall report to the Senate Finance and House Ways and Means Committees on the effectiveness of the NAFTA's automotive trade provisions. These reports shall include information on current bilateral automotive trade levels; remaining barriers; the amount U.S. exports have increased over the previous year; whether such increases meet the anticipated levels of new exports; and if not, what actions USTR is prepared to take (including, but not limited to, possible additional negotiations with Mexico) to realize the expected benefits."

9. Proclamation Authority for Definitions Relating to Rules of Origin (Article 415, p. 4-6)

After the paragraph on p. 406, add the following:

"The President is authorized to proclaim, subject to consultation and layover requirements, modifications to the definitions that may be agreed to by the Parties during the first year after enactment of the NAFTA."

10. Changes to Procedures for "Snapback" of Tariffs on Canadian Agricultural Products (Article 703/Annex 703.3, p. 7-3)

At the middle of p. 7-3, insert the following:

"Special Tariff Provisions for Fresh Fruits and Vegetables:

"Section 301(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (CFTA Act) is amended to provide that the Secretary of Agriculture may impose a temporary duty on any Canadian fresh fruit or vegetable (as defined in the statute) entered into the United States if:

"(1) The Secretary, or his designee, determines that both of the conditions set forth at section 301(a)(1)(A) and (B) of the CFTA Act (relating to the import price of the fresh fruit or vegetable and the planted U.S. acreage for the like product) exist at the time that imposition of the duty is recommended, and notice of such determination is published in the Federal Register; and

"(2) Not later than seven days after publication of such notice, and having considered whether the conditions in subparagraphs (A) and (B) have led to a distortion in U.S.-Canada trade in the relevant product, the Secretary determines to impose the temporary duty.

"The Commissioner of Customs and Director of the Census Bureau shall provide the Secretary with timely information concerning the importation of Canadian fresh fruits or vegetables, and importers shall be required to report such information as soon as practicable to the Commissioner of Customs."

11. Monitoring Imports of Broomcorn Brooms (Article 801; Annex 801.1, p. 8-1)

At the bottom of p. 8-1, insert the following:

"Statement of Administrative Action to provide that the Executive Branch will take the following actions: (1) it will carefully monitor U.S. imports of broomcorn brooms from Mexico once the NAFTA enters into force; (2) if the NAFTA's elimination of tariffs on these products results in increased imports from Mexico and causes or threatens to cause serious injury to U.S. producers, it will take action consistent with the NAFTA and U.S. law to rectify the situation; and (3) it will consult with the Congress concerning any developments with respect to imports of broomcorn brooms from Mexico."

12. Establishment of Rosters of Panelists (Annex 1901.2, p. 19-1)

Replace the bracketed language on p. 19-1 with the following:

"Identical provisions regarding the establishment and functions of the interagency group. With regard to the selection of panelists, identical provisions, with conforming amendments, and with the added requirement that, at the time the USTR submits candidate lists, it shall submit to the Senate Finance and House Ways and Means Committees a written report that contains: (1) such information regarding the individuals on the lists as the Committees may require; and (2) if the preliminary candidate lists include individuals who are not judges or former judges, a description of the efforts USTR has taken to include judges and former judges, the reasons the list is not comprised solely of judges or former judges, and the efforts the USTR has made to ensure that the non-judges included on the list have the appropriate qualifications.

"Committee report to expand on information to be required of individuals on preliminary candidate lists, taking into account that federal judges are subject to confirmation. Report to clarify that the request for information is not intended to discourage judges and former judges from serving on binational panels, but to encourage the selection of qualified panelists."

13. Standard of Review in Binational Panel Cases (Article 1904, p. 19-8)

After "Existing U.S. law applies," on p. 19-8, add the following:

"Statement of Administrative Action and committee report to emphasize that NAFTA requires binational panels to apply the same standard of review as domestic courts."

14. Grounds for Invoking Extraordinary Challenge Procedure (Annex 1904.13, p. 19-9)

Opposite Annex 1904.13 on p. 19-9, insert the following:

"Express the sense of the Congress that the failure of a panel to apply the appropriate standard of review, if such failure materially affected the outcome of the panel process, would, in the great majority of cases, in and of itself threaten the integrity of the binational panel review process. Provide further that the term 'manifestly' means only that the error is clearly evident and does not mean that the error itself must be of great magnitude."

15. Procedures for Invoking Extraordinary Challenge Procedure (Annex 1904.13, p. 19-9)

After the paragraph added pursuant to item 14 above on p. 19-9, add the following new paragraph:

"Statement of Administrative Action to elaborate on procedures by which interested parties can request that an extraordinary challenge committee be convened. Committee report to emphasize need for such procedures."

16. Import Monitoring (Annex 1904.15, p. 19-11)

Strike "No change to existing U.S. law" in the paragraph on p. 19-11, and replace with the following:

"Identical provision, with conforming amendments.

"Statement of Administrative Action and committee report to set forth the intention to monitor vigilantly foreign government actions in cases where there is the potential for subsidization (with particular attention to the provision of capital, loans, or loan guarantees on terms inconsistent with commercial considerations); as, for example, was stated in USTR's recent announcement of its intention to do so in response to the section 409(b) petition filed by Vista Chemical Company concerning linear alkylbenzene (LAB) production in Canada."

17. Subsidy Negotiations (Article 1907, p. 19-14)

Strike the third full paragraph on p. 19-14, and replace with the following:

"(a) Negotiating objectives.--The negotiating objectives of the United States with respect to subsidies, for any trade agreement entered into by the President (including any agreement to amend or permit accession to the NAFTA), include, but are not limited to:

"(1) achievement of increased discipline on domestic subsidies provided by a foreign government, including (A) the provision of capital, loans, or loan guarantees on terms inconsistent with commercial considerations; (B) the provision of goods or services at preferential rates; (C) the grant of funds or forgiveness of debt to cover operating losses sustained by a specific industry; and (D) the assumption of any costs or expenses of manufacture, production, or distribution;

"(2) achievement of increased discipline on export subsidies provided by a foreign government, particularly with respect to agricultural products; and

"(3) maintenance of an effective countervailing duty (CVD) remedy against all subsidized imports that materially injure or threaten to materially injure U.S. industries, and achievement of effective discipline on circumvention of CVD orders."

18. GAO Report on Chapter 19 Panel Decisions (Chapter 19, p. 19-16)

At the end of the description of Chapter 19 provisions on p. 19-16, add the following new paragraph:

"Require GAO to report on CFTA Chapter 19 panel decisions to date, analyzing each decision, the panel's application of the appropriate standard of review, and the volume of trade affected by the decision, and comparing the panel decision with CIT rulings on similar issues. Require similar annual reports on NAFTA Chapter 19 panel decisions."

19. Clarification of the "Effects Test" (Chapter 19, p. 19-16)

After the paragraph added in item 18 above on page 19-16, add the following new paragraph:

"Statement of Administrative Action and committee report to clarify that, once the Department of Commerce has found that a subsidy has been provided, it does not have to show that the subsidy affected the price or output of the subject merchandise. Statement of Administrative Action to provide that Administration will be willing to seek a legislative change if panels continue to misapply the test."

20. Clarification of "Specificity Test" (Chapter 19, p. 19-16)

After the paragraph added in item 19 above on page 19-16, add the following new paragraph:

"Statement of Administrative Action and committee report to clarify that the Department of Commerce may find that a subsidy is provided to a specific industry based on such factor or factors as it determines relevant, including one or more of those set out in its proposed regulations. Statement of Administrative Action to provide that Administration will be willing to support legislation to correct the problem if panels continue to misapply the test."

21. Allocation of Subsidies Over Time (Chapter 19, p. 19-16)

After the paragraph added in item 20 above, add the following new paragraph:

"Statement of Administrative Action and committee report to clarify that the Commerce Department has the discretion to allocate subsidies over a reasonable period of time such as the average useful life of an industry's renewable physical assets as established by the IRS. Statement of Administrative Action to provide that Administration will be willing to support legislation to correct the problem if panels continue to misapply the provision."

22. Authorization of Appropriations for Secretariat, Chapters 19 and 20 Panels and Committees (Article 2002, pp. 20-1 and 20-2)

Strike the second paragraph on p. 20-1 and the bracketed language at the top of p. 20-2, and replace with the following:

"Authorizes appropriations to the department or agency within which the U.S. Secretariat is established (Department of Commerce) of the lesser of such sums as may be necessary or \$2,000,000 for each fiscal year after fiscal year 1993 for the establishment and operations of the U.S. Secretariat and for payment of the U.S. share of expenses of binational panels and extraordinary challenge committees convened pursuant to Chapter 19 and dispute settlement proceedings under Chapter 20. The U.S. Secretariat may retain and use funds provided by the Canadian and Mexican Secretariats for payment of their share of such expenses."

**23. Selection of Candidates for Chapter 20 Panel Roster
(Articles 2008-2017, p. 20-5)**

At the top of p. 20-5 add the following:

"The USTR is required to consult with the Ways and Means and Finance Committees regarding the selection of candidates for the Chapter 20 roster."

24. Cultural Industries (Article 2106/Annex 2106, p. 21-3)

Opposite Article 2106 on p. 21-3, insert the following:

"The Trade Act of 1974 is amended to add a new section 183 ('Identification of a Country that Denies National Treatment, Market Access, or Adequate and Effective Intellectual Property Rights Protection for Cultural Industries') providing that:

"(1) By no later than 30 days after submission to Congress of the annual National Trade Estimates report, USTR shall identify any act, policy, or practice of Canada adopted or expanded after December 17, 1992 affecting cultural industries, and which would violate or be inconsistent with the NAFTA but for Article 2106. Any act, policy, or practice so identified should be treated, for purposes of section 301, as the basis for Canada's identification under the special 301 law as a 'priority foreign country', unless the United States has already taken action under Article 2106 in response to it.

"(2) In determining whether to make such an identification, USTR shall consult with and take into account the views of the relevant U.S. industries, appropriate advisory committees, and appropriate federal government officials."