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1 EXECUTIVE COMMITTEE MEETING

2 WEDNESDAY, JULY 27, 1994

3 U.S. Senate,

4 Committee on Finance,

5 Washington, DC.

6 The meeting was convened, pursuant to notice, at  
7 10:14 a.m., in Room SD-215, Dirksen Senate Office  
8 Building, Hon. Daniel Patrick Moynihan, Chairman of the  
9 Committee, presiding.

10 Also present: Senators Baucus, Bradley, Pryor,  
11 Rockefeller, Daschle, Breaux, Conrad, Packwood, Dole,  
12 Roth, Danforth, Chafee, Grassley, Hatch and Wallop.

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

15 Also present: Ambassador Rufus Yerxa, Deputy USTR  
16 Representative; Ira Shapiro, General Counsel, USTR.

17 Also present: Marcia Miller, Chief International  
18 Trade Counsel and Brad Figel, Chief Trade Counsel,  
19 Minority.

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1           The Chairman. A very good morning to our  
2 distinguished witnesses from the administration, to our  
3 staff and to our guests. This morning we will move from  
4 the specifics of the Uruguay Agreement which we finished  
5 our walk through last Thursday, as I recall, and we will  
6 go to some additional proposals that the administration  
7 would like included in our legislation this year.

8           Then after that our indefatigable staff has worked up  
9 some 26, I believe, amendments that have been agreed on  
10 within the committee and which we will walk through and  
11 reach that.

12           Then we can talk about individual amendments. But I  
13 would like to suggest we will not start voting until  
14 tomorrow. Secretary Bentsen has asked to meet with  
15 Senator Packwood and myself to go through the specifics of  
16 paying for this measure. That will be done later today.

17           Late today we will have for committee members the  
18 administration proposal.

19           Senator Baucus. On financing.

20           The Chairman. On financing, yes, sir.

21           I can say before we just turn to Ambassador Yerxa,  
22 can I just say I hope this is not premature as there is a  
23 letter here from the Attorney General of Maine, Mr.  
24 Michael Carpenter, the Attorney General of North Dakota,  
25 and the Attorney General of Tennessee indicating that in a

1 series of meetings with General Counsel Shapiro, the  
2 Attorneys General have reached accord on some changes that  
3 should be made, reach accord, with the administration on  
4 changes they would like to be made in the agreement and we  
5 will leave that to Ambassador Yerxa and Mr. Shapiro to  
6 expound as they go through. But that is a good omen.

7 Senator Baucus. Mr. Chairman, is that letter  
8 available?

9 The Chairman. Yes, sir. I have not read it, but I  
10 have just been shown it.

11 Senator Baucus. Thank you.

12 The Chairman. And it has not been released. But  
13 there you are. You have now the one copy available in  
14 town.

15 Senator Baucus. Thank you.

16 The Chairman. Senator Packwood?

17 Senator Packwood. No comments this morning, Mr.  
18 Chairman.

19 The Chairman. Any Senators disposed to address these  
20 matters at this point?

21 (No response.)

22 The Chairman. In that case, good morning, Ambassador  
23 Yerxa, and you proceed as you think best, sir.

24 Senator Breaux. Mr. Chairman?

25 The Chairman. Yes, Senator Breaux.

1 Senator Breaux. I was just thinking we have a vote.  
2 I do not know what you desire.

3 The Chairman. Oh, God, this soon?

4 Senator Bradley. It is a motion to instruct.

5 The Chairman. Oh.

6 Senator Breaux. We are present.

7 The Chairman. Can we just sent word that we are  
8 here?

9 Senator Breaux. We are present.

10 The Chairman. I am sorry. But clearly, the better  
11 thing to do would be just to go down and vote and come  
12 right back.

13 Senator Baucus. Right.

14 The Chairman. Those who do not know the shorthand, a  
15 motion to instruct, the Sergeant at Arms to compel the  
16 members, the attendance of Senators, is a statement of  
17 mild displeasure by the Majority Leader. Not enough  
18 people are on the floor offering amendments on another  
19 bill.

20 (Whereupon, at 10:18 a.m. the above-entitled meeting  
21 recessed, resuming at 10:40 a.m.)

22 The Chairman. Well, here we are again and we welcome  
23 Senator Dole. There was not much in the way of opening  
24 statements, Senator Dole. We said that we would use this  
25 morning to hear from the administration on additional

1 measures that they would like to have.

2 I did, however, announce the good news that Mr.  
3 Shapiro has worked out on behalf of the administration an  
4 agreement with the Attorneys General and they have some  
5 changes they would like to make which we will hear about.  
6 But we are in accord with them.

7 So, again, apologizing for the delay. Ambassador  
8 Yerxa, good morning, sir.

9 Ambassador Yerxa. Good morning, Mr. Chairman. Would  
10 you like me to go through the four additional proposals?

11 The Chairman. Please.

12 Ambassador Yerxa. We have submitted to the  
13 committee, and I believe you have before you, four  
14 documents related to additional proposals that the  
15 administration has submitted. The first that I would like  
16 to take up relates to GSP reauthorization and changes in  
17 the GSP program. The second one has to do with an interim  
18 trade program for the Caribbean Basin. The third has to  
19 do with additional Article 28 GATT compensation authority.  
20 And the fourth one relates to our proposal for extension  
21 of trade negotiating authority, both fast track  
22 implementation authority and tariff proclamation authority  
23 for future trade agreements.

24 Turning first to the document on GSP renewal, let me  
25 make a couple of --

1           The Chairman. May I just make sure, does everyone  
2 have these documents? I was just handed them. This is  
3 dated July 21 Summary.

4           Ambassador Yerxa. That is correct, Summary of the  
5 Administration's GSP Proposal.

6           The Chairman. Right. There are four such documents  
7 and there is one that says summary. Can I ask once again,  
8 it always helps to have a date and initials on a piece of  
9 paper. Does everyone have them?

10          Senator Packwood. What is the first one called?

11          The Chairman. The one we are going to go to now is  
12 ``Summary of Administration's GSP Proposal.'' I found it  
13 the last.

14          Senator Packwood. There it is. All right.

15          The Chairman. All right.

16          Ambassador Yerxa. Mr. Chairman, this subject was  
17 discussed with the committee, with members of the trade  
18 subcommittee, in a hearing Senator Baucus chaired in the  
19 Trade Subcommittee in which the administration described  
20 its proposal.

21                 We are proposing here some fairly important changes  
22 in the GSP program, which we believe will improve it and  
23 improve the purposes for which it was originally designed  
24 to provide a means of encouraging economic development in  
25 developing countries.

1           But let me say a few things about the current GSP  
2 program. This program provides preferential duty-free  
3 access on over 4,000 selected items from 147 developing  
4 economies. Last year nearly \$20 billion entered the U.S.  
5 duty-free under GSP. The current program expires  
6 September 30 of this year. On June 20, as I said, we  
7 testified before Senator Baucus on the subject of renewal  
8 and at that time we discussed our legislative program for  
9 a renewed GSP program.

10           We believe that it is altogether appropriate on the  
11 extension of the Uruguay Round. First of all, it  
12 implements the Uruguay Round commitment to foster trade  
13 with least developed countries. Second, it is a unique  
14 and valuable tool for encouraging developing countries to  
15 accept greater obligations under the WTO system.

16           For these reasons we strongly support GSP renewal.  
17 The administration's proposal would achieve the above aims  
18 in the following ways. First, it would retain the current  
19 criteria for country eligibility with some minor  
20 modifications, Mr. Chairman, including the removal of some  
21 anacronymist provisions on communist countries and OPEC  
22 members.

23           But the mainness of the current criteria are to  
24 ensure that countries receiving GSP are working to meet  
25 international standards relating to trade and workers'

1 rights.

2 Second, it would lower the program's competitive need  
3 limits. This allows us to better monitor and control the  
4 use of GSP by the largest, most competitive beneficiaries  
5 whose share of GSP benefits has increased dramatically.  
6 It also lowers the threshold for graduating advanced  
7 countries from GSP.

8 Third, it would give the President the authority to  
9 grant expanded benefits --

10 The Chairman. You might just help the committee.  
11 There are a number of countries that have graduated as the  
12 term is.

13 Ambassador Yerxa. That is correct. The original GSP  
14 extended to just about all developing countries. I think  
15 as countries have reached a certain level of GNP growth  
16 and economic development they have been graduated. For  
17 example, Korea, Taiwan, Hong Kong, Singapore.

18 The Chairman. Yes. I just wanted to make the point.

19 Ambassador Yerxa. They all exceeded the per capita  
20 GNP limits and have been graduated from the program.

21 We are proposing here, obviously, a further  
22 tightening of the competitive need limits which does not  
23 go to the graduation of countries, but it goes to the  
24 graduation of products from countries. For example, when  
25 the exports from a particular country reach a certain



1 dollar volume they are removed from GSP eligibility from  
2 that country. We are proposing to lower that amount for  
3 individual products.

4 The Chairman. I think the administration would be  
5 well to be alert to these things. The idea of Hong Kong  
6 as somehow a deprived region is bizarre.

7 It was not until 1967 that Japan graduated from the  
8 World Bank's list of developing countries. So the world  
9 changes very quickly.

10 Ambassador Yerxa. As I mentioned, we are also  
11 proposing that we expand the benefits for the least  
12 developed countries. That is, in general reorient this  
13 program to provide a greater proportion of overall  
14 benefits to the least developed countries and lesser  
15 proportion to the more advanced developing countries.

16 And finally, it reforms the GSP review process,  
17 establishing clearer standards for the acceptance of  
18 petitions. This would improve the transparency and  
19 predictability of the program's administration to the  
20 benefit of both interested U.S. parties and beneficiary  
21 countries.

22 Now, we have submitted a proposal which would extend  
23 the program only through September 30 of next year. In  
24 other words, we are suggesting here that you make certain  
25 fundamental changes in the underlying statute, but that

1 the termination date would only be extended for a year  
2 here because of essentially budgetary considerations at  
3 this point and this would allow the committee next year to  
4 take up the question of a further permanent or longer  
5 term. Not permanent, but a longer term extension of the  
6 program.

7 The Chairman. I make the point, if I may, and if  
8 anyone wants to comment, that we exclude from the GSP  
9 precisely those items which they are mostly to be able to  
10 produce efficiently and, well, competitively -- textiles,  
11 footwear, apparel, leather, ceramics.

12 So we are forcing them into electronics and  
13 electrical machinery. We may one day wonder what  
14 happened. I leave you that irony. The largest element of  
15 the -- 22 percent of our imports are electronics.

16 Senator Bradley. I am not sure it is an irony. It  
17 is pretty understandable.

18 The Chairman. It is pretty understandable.

19 Ambassador Yerxa. Would you like me to go on to the  
20 next issue?

21 Senator Packwood. Can I ask a question?

22 The Chairman. Any questions?

23 Senator Packwood. Would this fit into the  
24 definition, Mr. Ambassador, of necessary and appropriate?

25 Ambassador Yerxa. Well, we believe it would be

1 appropriate as a Uruguay Round implementation measure for  
2 reasons that I suggested, that first of all it does  
3 implement a commitment in the Uruguay Round to foster  
4 trade with least developed countries.

5 Second, it is a valuable tool for encouraging these  
6 countries to assume greater WTO obligations. That is, if  
7 least developing countries are getting some increased  
8 tariff benefits they are more likely to opt into a number  
9 of the important --

10 Senator Packwood. I think though the words are  
11 ``necessary and appropriate,`` is it not?

12 Ambassador Yerxa. Yes. We are not suggesting that  
13 this is necessary. We are suggesting that it is  
14 appropriate for implementing the round.

15 Senator Packwood. And almost anything can fit into  
16 the definition of appropriate if it is related to trade in  
17 some way, shape or form.

18 Ambassador Yerxa. Yes. But, obviously, that is the  
19 purpose of this fast track process, to try and achieve  
20 some consensus between the administration and the Congress  
21 over what would be considered appropriate in the context  
22 of this legislation.

23 Senator Packwood. I understand that. There are many  
24 people who have amendments, however, that are not  
25 necessary to fast track that could conceivably be

1 appropriate. And if you start down this road and if you  
2 open it up enough, and I am not sure you pick up as many  
3 supporters as opponents if this gets broader and broader  
4 and then finally gets into the area of labor and  
5 environment, which is neither necessary or appropriate.

6       ?Mr. Shapiro. Senator, if I could add one thought on  
7 the appropriateness of this particular item. Many members  
8 on the committee and elsewhere have asked us how we are  
9 going to continue, for instance, in the intellectual  
10 property area to make progress beyond the implementation  
11 of trips and the GSP program and its ties to intellectual  
12 property and the relating of benefits in that area to  
13 intellectual property has been a very important tool.

14       There have been others who have wanted to link  
15 Section 301 to the question of GSP benefits. So from the  
16 standpoint of our overall trade policy coming out of the  
17 Uruguay Round, I think those linkages also make this  
18 appropriate for the committee to be considering in  
19 connection with what we are doing.

20       Ambassador Yerxa. In fact, we have been discussing  
21 with various Senators' staffs amendments to 301 and other  
22 provisions related to intellectual property, some of which  
23 would touch upon the issue of a GSP connection.

24       The only additional point I would make, Senator  
25 Packwood, is that the GSP program is not a program

1 operated solely by the United States. There are other  
2 countries that have preference programs very similar to  
3 this, all of which have been recognized, were essentially  
4 created because of a GATT waiver to allow these kinds of  
5 preferences. That waiver would be extended in the WTO.

6 So I think there is a pretty clear connection here  
7 for a variety of reasons.

8 Senator Packwood. Well, I like Rufus, but all he is  
9 saying is it is appropriate. He has three more that are  
10 appropriate. None of which are necessary.

11 The Chairman. No, none of these are necessary.

12 Senator Packwood. And at some stage I am going to  
13 just tip over the edge, Mr. Chairman, because there are a  
14 number of these amendments that they want that are  
15 appropriate that I do not like.

16 The Chairman. Well, you surely are not going to tip  
17 over the edge just because Ambassador Yerxa is telling you  
18 what he would like.

19 Senator Packwood. No. No, that is fine, if that is  
20 all he is doing is telling me what he likes. I am happy  
21 to listen all morning to what he likes.

22 The Chairman. There you are then, Ambassador.

23 Ambassador Yerxa. With that invitation --

24 (Laughter.)

25 Senator Packwood. I like GSP. I am not quarreling

1 with you. You are going to get to a number of things I do  
2 not like. So far you have not.

3 Senator Dole. Could I just add to that?

4 The Chairman. Yes, sir.

5 Senator Dole. I mean, if we are going to have fast  
6 track -- other amendments are going to be offered and I  
7 have taken a look at all of them. Some are rather  
8 controversial, have had no hearings. The best way to do  
9 is slip it into this and get fast track. You cannot amend  
10 it on the floor.

11 I would hope in some of these cases we do not rush to  
12 judgment around here and say, well, we will just slip it  
13 in here and nobody can touch it.

14 The Chairman. I absolutely agree.

15 Senator Dole. If that happens, you are going to lose  
16 a lot of votes for fast track.

17 Senator Bradley. If I could just echo Senator Dole's  
18 words. I mean, I think a lot of effort has been put into  
19 negotiating this agreement and I think that the worse  
20 thing that we could do is try to undo the provisions that  
21 are in the agreement through amendment put into a fast  
22 track process.

23 I know that there are going to be such suggestions.  
24 I hope that we will strongly resist those.

25 The Chairman. That is a perfectly fair point. I

1 mean, Senator Dole makes an absolutely clear point and  
2 Senator Bradley reenforces it.

3 Senator Rockefeller. Mr. Chairman?

4 The Chairman. Senator Rockefeller?

5 Senator Rockefeller. Can I make a model point?

6 The Chairman. As in? Everyone is entitled to one a  
7 week.

8 (Laughter.)

9 Senator Rockefeller. That is that I also agree with  
10 what they are saying. But on the other hand, why are we  
11 in this process? I mean, it does have to go through us.  
12 We are the Finance Committee. There is a special  
13 responsibility in that it is not amendable. In a sense we  
14 have to speak for a lot of other people, too. So that  
15 looking at it carefully with occasional amendments is not  
16 really terrible, so long as it is held down.

17 The Chairman. I do not think that was a particularly  
18 muddled point at all.

19 Senator Dole. Yes. I do not object to that. I  
20 think just as long as we have enough time and enough  
21 information, because we are in effect going to be changing  
22 the agreement. Maybe that is okay in some cases. In  
23 fact, I may support an amendment you are going to offer.  
24 But I think we need to have the information.

25 The Chairman. And no rush.

1           Senator Dole.   Yes.

2           The Chairman.   We can be -- what is the Spanish --  
3   festina lente -- hurry slowly.

4           Senator Dole.   The same with health care.

5           The Chairman.   Ambassador Yerxa, get us back to work.  
6   Would you, please?

7           Ambassador Yerxa.   The next proposal I would like to  
8   discuss with you has to do with the interim trade program  
9   for the Caribbean Basin.   I think there is a summary of  
10   that which has that title.   I think the document describes  
11   the importance of Caribbean two-way trade to the United  
12   States and the importance of the benefits that the United  
13   States has received from this program.

14           At the time this program was originally enacted there  
15   were many who predicted that it would lead to a flood of  
16   low-cost imports into the United States, thereby causing  
17   serious job losses here.   The actual experience under CBI  
18   has shown first of all that two-way trade has increased  
19   substantially.

20           But second, we have actually gone from a trade  
21   deficit with the Caribbean Region at the time we  
22   implemented the program to a substantial surplus of about  
23   \$2 billion today.

24           The problem as we see it with the continued viability  
25   of the Caribbean Region really relates to the effects of



1 NAFTA implementation on them and we are suggesting some  
2 proposals related to granting further benefits to CBI  
3 countries for work that is largely done by U.S.  
4 manufacturers, that is then shipped to the Caribbean and  
5 shipped back to the United States.

6 This in our view would have the effect not only of  
7 ensuring that NAFTA does not undermine the Caribbean  
8 Region but also strengthening U.S. exports to the region  
9 and shifting market share from other countries to the  
10 Caribbean.

11 Without this, CBI country's exports to the United  
12 States would face higher duties than those from Mexico.  
13 But we also are proposing as part of this program that the  
14 countries qualifying would have to improve their  
15 protection of investment and intellectual property in  
16 order to help U.S. companies. This would provide for a  
17 stronger patent and trademark and copyright protection,  
18 stem the losses currently being caused by pirated products  
19 and with respect to investment would strengthen the status  
20 of U.S. investors in the region.

21 Senator Bradley. Would it apply to exports from CBI  
22 countries to the United States, any areas broader than  
23 textiles?

24 Ambassador Yerxa. No. The program only extends  
25 enhanced benefits for textiles and apparel.

1           Senator Bradley. What is the rationale for that as  
2 opposed to shoes or anything else?

3           Ambassador Yerxa. Well, we believe this is the area  
4 where the largest potential problem of a transfer of  
5 production from the Caribbean to Mexico might occur absent  
6 this program.

7           Senator Bradley. What is second?

8           Ambassador Yerxa. The second largest is actually  
9 petroleum. But there the duty on imports is not a  
10 significant duty. It is a nominal duty.

11          Mr. Shapiro. Senator, just following up on  
12 Ambassador Yerxa's statement, the textile and apparel  
13 sector accounts for 75 percent of the products now  
14 excluded from CBI and, in fact, 99 percent of the non-  
15 petroleum products. So this is the area of concern.

16          Senator Bradley. Thank you.

17          Ambassador Yerxa. The only other point I would like  
18 to make here is that because of the Maquiladora program  
19 and because of the requirements in our quota programs with  
20 respect to U.S. fabric or fiber -- yarn and fabric -- we  
21 actually have substantial exports to the Caribbean now of  
22 these products.

23          U.S. exports of fiber, yarn, fabric and apparel was  
24 about \$2.25 billion in 1993 and apparel production in the  
25 Caribbean is done largely by U.S. manufacturers who

1 operate in the Caribbean using American components. So we  
2 see this as a means of mutually reinforcing the textile  
3 and apparel sectors in both the United States and the CBI  
4 countries.

5 The next proposal I would like to discuss relates  
6 to --

7 Senator Danforth. Before you go on.

8 The Chairman. Yes, Senator Danforth.

9 Senator Danforth. I am not certain what the answer  
10 is to this. But do you attempt to do in the CBI proposal  
11 something on the order of what was attempted and partially  
12 effectuated with respect to NAFTA in connection with  
13 environmental concerns and worker rights?

14 Ambassador Yerxa. The CBI authorizing legislation  
15 itself, I believe, had provisions in it relating to  
16 workers' rights. We are not proposing any changes in  
17 those eligibility criteria.

18 Senator Danforth. How about environmental matters?

19 Ambassador Yerxa. Not in the proposal we are  
20 submitting to you, no.

21 Senator Baucus. Mr. Chairman?

22 The Chairman. Senator Baucus.

23 Senator Baucus. Why not environmental matters? If  
24 this is supposed to be NAFTA-like, the same treatment as  
25 NAFTA, then why not the same treatment?

1           Ambassador Yerxa. Well I think the issue really goes  
2 to whether those kinds of issues how they can best be  
3 advanced. We recognize that there is significant interest  
4 in dealing with those issues in the context of trade  
5 expansion. But we cannot necessarily do it with every  
6 single statutory provision.

7           We do believe that there is a mechanism and procedure  
8 that we would propose to deal with those issues. GSP and  
9 CBI have not traditionally dealt with those issues. There  
10 are certain other issues that the eligibility criteria do  
11 deal with.

12          Senator Baucus. What would those other mechanisms be  
13 for dealing with environmental matters in the Caribbean?

14          Ambassador Yerxa. Well, I think we are going to  
15 discuss the fast track proposal and we will get to what we  
16 are proposing there.

17          Senator Baucus. I do not want you to get ahead of  
18 yourself, but in fast track are you proposing --

19          Ambassador Yerxa. This is an interim program we are  
20 talking about.

21          Senator Baucus. But you are proposing in fast track,  
22 the administration, to bring in all the Caribbean Basin  
23 into a trade agreement similar to NAFTA, is that your  
24 intention or not?

25          Ambassador Yerxa. It would ultimately provide that

1 authority, yes.

2 Senator Baucus. Then why can't we deal with CBI  
3 issues then?

4 Ambassador Yerxa. As I said, this is an interim  
5 program which is really designed to deal with the  
6 potential adverse affects on our trade with the region of  
7 the implementation of NAFTA, not to solve all of the  
8 problems related to excision of these countries to the  
9 NAFTA or to bilateral free-trade arrangement.

10 Senator Baucus. Thank you.

11 Senator Rockefeller. Mr. Chairman?

12 The Chairman. Senator Rockefeller?

13 Senator Rockefeller. I just wanted to make a comment  
14 which I have made to your staff, so they are fully aware  
15 of it, that it is not completely clear to me that we ought  
16 to be doing the GSP on this bill. But if it is the will  
17 of the committee to do that, then Senators Breaux, Boren  
18 and myself will probably have an amendment which deals  
19 with import sensitive glass and Chinaware.

20 The Chairman. Glass and Chinaware.

21 Senator Rockefeller. To exempt them as they are now.

22 The Chairman. Oh, yes, they are now exempted. I  
23 made the point that with our GSP we have said you may not  
24 do anything which you have a comparative advantage, such  
25 as glass, footwear or apparel. But if you would like to

1 go into high technology, well, that is just fine. That is  
2 how Singapore came about. But we leave that just an  
3 irrelevant, muddled comment.

4 Ambassador Yerxa. We do have some concerns about the  
5 amendment that Senator Rockefeller is discussing. I do  
6 not need to go into it at this point.

7 Senator Bradley. Why not? Tell me what they are.

8 Mr. Shapiro. He was just getting into it, Senator.

9 Ambassador Yerxa. If you would like me to, I would  
10 be glad to. These products are not statutorily exempt at  
11 this time. Petitions to add them have not been accepted  
12 in the past because of a review of the current situation  
13 and a determination and because of general criteria  
14 relating to sensitivity petitions would not be granted.

15 I think there have been some complaints from people  
16 in the industry that these petitions come annually and  
17 that it forces them into a situation in which they have to  
18 sort of fight these petitions on an annual basis.

19 Now, we are suggesting improvements in the petition  
20 process, essentially product-based petitions would only be  
21 considered every third year rather than annually. So I  
22 think that would go a long way to addressing Senator  
23 Rockefeller's concern.

24 But I believe that, and the administration believes  
25 that, keeping the statutory exemptions to an absolute

1 minimum and making import sensitivity determinations on an  
2 administrative case by case basis is much preferred over  
3 the process of statutory exemptions. Once you have  
4 started, I do not think you will be able to stop it.

5 Senator Bradley. What statutory exemptions are there  
6 now?

7 Ambassador Yerxa. There is a list. Textiles and  
8 apparel, footwear products, watches, and then there is  
9 some general language about other products determined to  
10 be import sensitive upon review. That is really what we  
11 are discussing now.

12 Certain import sensitive electronic items actually  
13 are exempt.

14 Senator Bradley. Watches? You mean our watch  
15 industry in America? Trying to protect our watch  
16 industry?

17 Ambassador Yerxa. The Virgin Islands watch industry,  
18 yes.

19 The Chairman. Thank you, Ambassador Yerxa.

20 Senator Chafee. Mr. Chairman?

21 The Chairman. Senator Chafee?

22 Senator Chafee. Mr. Chairman, in our State we have  
23 one problem that perhaps if the Ambassador would be good  
24 enough to have one of his folks to talk with our staff on.  
25 It involves what is known as narrow fabrics -- elastic,

1 which we make. If somebody from your office could talk  
2 with somebody on our staff, we would be grateful.

3 Ambassador Yerxa. We would be glad to.

4 Senator Chafee. Thank you.

5 Thank you, Mr. Chairman.

6 The Chairman. Thank you, Senator Chafee.

7 Ambassador Yerxa?

8 Ambassador Yerxa. The next proposal relates to the  
9 authority to adjust our bound tariffs under our WTO  
10 obligations and to impose domestically higher tariffs  
11 based on an Article 28 compensation negotiation with  
12 another country.

13 That document is entitled ``Summary of Administration  
14 Proposal to Amend Authority to Raise Tariffs and Provide  
15 Compensation.'' What we are proposing here is that we  
16 would amend the current authority under Section 125 of the  
17 Trade Act to permit the United States pursuant to its  
18 rights and obligations under a specified agreement to  
19 increase tariffs to 350 percent above the rate in effect  
20 on January 1, 1975 and also to amend the current  
21 provisions in Section 123 to include actions taken under  
22 125, as amended.

23 Now, the rationale for this is that there are from  
24 time to time key sectors in which it is necessary for the  
25 United States to negotiate compensation arrangements with



1 other countries in order to alter its bound tariff rates.  
2 We are currently negotiating in two areas, one relates to  
3 the wheat issue with Canada and one relates to tobacco.  
4 This would give the administration authority to negotiate  
5 reasonable arrangements in both those areas.

6 We expect to be able to reach agreements in both  
7 areas. But obviously we do not have any legislative  
8 authority to raise tariffs pursuant to that agreement  
9 above the 20 percent that is currently involved.

10 The Chairman. You have had the 20 percent authority.

11 Ambassador Yerxa. The 20 percent authority still  
12 exists.

13 The Chairman. How long has that been there?

14 Ambassador Yerxa. I believe it has been in since the  
15 1974 Trade Act.

16 The Chairman. Since the 1974 Trade Act?

17 Ambassador Yerxa. Yes.

18 The Chairman. And now you want to go from a 20  
19 percent margin to a 350 percent?

20 Ambassador Yerxa. Well, this would give us authority  
21 to go that high. That does not necessarily mean that in  
22 any of these particular exercises we would end up at that  
23 rate.

24 The situation with tobacco, which I might describe  
25 first, is that in 1993 in the Omnibus Budget

1 Reconciliation Act, the so-called Ford Amendment was  
2 passed which did create a domestic manufacture requirement  
3 for tobacco, which imposed a 75 percent domestic  
4 manufacture requirement on tobacco and made certain other  
5 assessments which have been the subject of a GATT panel  
6 finding.

7 The purpose of exercising the authority here would be  
8 to allow us to remove those procedures and substitute for  
9 them an increased tariff on tobacco products.

10 The Chairman. When you do that, do you not have to  
11 pay compensation?

12 Ambassador Yerxa. This would give us authority to  
13 negotiate compensation with other countries. In the case  
14 of tobacco, since you have a number of very, very small  
15 suppliers, we believe that compensation can be negotiated  
16 successfully without impact on other sectors.

17 Senator Packwood. By compensation, would you define  
18 that?

19 Ambassador Yerxa. Well, it is a --

20 Senator Packwood. Two-way street.

21 The Chairman. A two-way street.

22 Ambassador Yerxa. It is a --

23 Senator Packwood. We raise the tariffs on something.

24 Compensation is they raise the tariffs on something.

25 Ambassador Yerxa. No, not necessarily.

1           Senator Packwood. Not necessarily but that --  
2           Ambassador Yerxa. The compensation could be for us  
3 to provide them with some additional tariff concession or  
4 non-tariff concession in exchange for this change. And in  
5 some cases you can -- for example, in the tobacco case we  
6 believe you can negotiate compensation based on providing  
7 them certain assurances about their access to the U.S.  
8 market for certain quantities.

9           In other words, we are proposing to replace the  
10 domestic content provision with a negotiated tariff rate  
11 quota, which would allow access up to certain quantities.

12           Senator Packwood. But the compensation though in all  
13 likelihood may be something that some other industry that  
14 is exporting does not like, is it not? Exporting from the  
15 United States.

16           Ambassador Yerxa. Theoretically, the administration  
17 could decide to compensate with some other tariff cut.  
18 But obviously that would only be done based on  
19 consultations with those industries and based on a  
20 determination that it is an acceptable change.

21           But if you are talking about retaliation, that is  
22 different than compensation.

23           Senator Packwood. That I understand. You raise the  
24 tariff from 20 percent to 150 percent on some item coming  
25 in from a country under a Section 28.

1 Ambassador Yerxa. Article 28.

2 Senator Packwood. 128. That country then has the  
3 right to claim compensation.

4 Ambassador Yerxa. That is correct.

5 Senator Packwood. Now, go through the various forms  
6 of compensation this could be. Give me some for  
7 instances. We have now raised the tariff on their product  
8 from 20 percent to 150 percent.

9 Ambassador Yerxa. Under Article 28 procedures a lot  
10 depends -- the extent to which they have rights to  
11 compensation depends on whether they are a principal or  
12 substantial supplier to the U.S. market. That limits the  
13 universe of people you actually have to compensate.  
14 Because if they are not a principal or substantial  
15 supplier -- and that is I am not aware of the exact  
16 definition, but it is a determination that is made based  
17 on GATT precedent.

18 If they are not a principal or substantial supplier,  
19 they do not have a right to compensation. They are --  
20 that compensation can be anything the two parties can  
21 negotiate which essentially the other party will accept as  
22 compensation.

23 Senator Packwood. Then they accept it as  
24 compensation and they may not retaliate.

25 Ambassador Yerxa. That is correct.

1           Senator Packwood. Right. They have a choice. They  
2 would have a choice under the World Trade Organization to  
3 retaliate if we could not agree on compensation.

4           Ambassador Yerxa. Under existing Article 28, as well  
5 as under the WTO rules they would have a right. They  
6 would have a right if no compensation agreement was  
7 reached and if the extent of their retaliation went no  
8 further than the extent to which their rights had been  
9 impaired. And if they were a principal or substantial --

10           Senator Packwood. Say we were importing something  
11 from Canada and we raised the tariff from 20 percent to  
12 150 percent and Canada is a major supplier. Canada then  
13 says, okay, that is \$300 million. We want compensation.  
14 And you say, all right, you can raise the tariffs on beer  
15 and wine to \$300 million. And Canada says, okay, we will  
16 accept that deal. That would be compensation, would it  
17 not?

18           Ambassador Yerxa. Well, normally the kind of  
19 compensation we are talking about is where they would be  
20 compensated by concessions by us, rather than retaliation  
21 by them. That is, a tariff or non-tariff concession by  
22 the United States.

23           The Chairman. Could I just interrupt?

24           Senator Roth. Mr. Chairman?

25           The Chairman. Senator Roth, you are next.

1           To say, this compensation arrangement in the World  
2 Trade Organization just carries over from the GATT. It  
3 has been in place for 40 years. It is the way we work  
4 now.

5           Senator Packwood. I know what it is. What I fear,  
6 Mr. Chairman, is I think what the administration is asking  
7 is the right to raise some tariffs, unless I mistake where  
8 they are going, and somebody is going to suffer. I am not  
9 sure who it is going to be, but there is going to be a  
10 trade off.

11          The Chairman. That is right. I think they also  
12 would like to be able to look at people across the table  
13 and say, do you know what we can do if we have to. These  
14 are people, you know.

15          Senator Roth and Senator Baucus. And then I am sorry  
16 to have to tell you --

17          Senator Bradley. Mr. Chairman?

18          The Chairman. Yes, sir.

19          Senator Bradley. On this issue.

20          The Chairman. I am sorry to have to say there is a  
21 roll call vote on a motion to proceed to the consideration  
22 of S.1513, the improving America's schools bill.

23          So why do we not hear from Senator Roth and then I  
24 think we could come back and resume with the Chairman of  
25 the Subcommittee on Trade, Mr. Baucus.

1           Senator Roth. Mr. Chairman, I just want to continue  
2 along the lines of what both you and Senator Packwood have  
3 been saying, if I understand you correctly. This is a bad  
4 proposal. As a matter of fact, it was rejected by the  
5 House, Ways and Means Committee.

6           Senator Packwood. And it is neither necessary or  
7 appropriate for the legislation.

8           Senator Roth. Absolutely, not whatsoever.

9           I would point out that a number of us, including Pat  
10 Leahy, and Dick Lugar, the Chairman and Ranking Member of  
11 the Agriculture Committee, we met with top people,  
12 including the USTR, spelling out their objection to this  
13 very proposal.

14           What worries us, Mr. Chairman, is that in the case of  
15 wheat you are talking about 1.2, I think it is -- 1.8 of  
16 trade between Canada and ourselves. But what is at stake,  
17 Canada has made clear that if we move ahead and raise  
18 permanently the tariff on durum wheat, that they are going  
19 to retaliate in the case of dairy or poultry, processed  
20 food or any other numbers.

21           Senator Packwood. Wine and beer.

22           Senator Roth. Now, the whole purpose of this  
23 legislation is to open up access. This is going exactly  
24 the opposite way. Just let me point out that in the ITC  
25 hearing or decision they did not agree as to what should

1 be done. Three of the six members of the Commission said  
2 they could either find there was material injury or there  
3 was not material injury. That is a pretty wishy-washy  
4 decision in my book.

5 And yet here we are, the administration is talking  
6 about permanent authority to increase the tariffs when  
7 what we are trying to do in the case of poultry is to open  
8 it up. We have been trying to open it up for 15 years.  
9 We are not talking about peanuts. We are talking about  
10 trade that could amount as much as \$350 to \$700 million.  
11 We are putting that all at risk for this problem with  
12 durum wheat.

13 It makes no sense. It was turned down. Mr.  
14 Chairman, I think we should turn it down here as well.

15 The Chairman. Well, I think we have your view very  
16 clearly on that. There are other views. We will get to  
17 them as soon as we return. The five lights are on. So we  
18 will adjourn. Everyone --

19 Senator Pryor. We can still continue on this  
20 subject, right?

21 The Chairman. We will come right back to it. Mr.  
22 Baucus is next.

23 Senator Pryor. Thank you.

24 (Whereupon, at 11:20 a.m., the above-entitled meeting  
25 recessed and resumed at 11:42 a.m.)



1           The Chairman. I see all have returned. The next  
2 questioner is Senator Baucus, who is Chairman of our  
3 Subcommittee.

4           Senator Baucus. Thank you, Mr. Chairman. Senator  
5 Roth is not here. I was going to respond to some of the  
6 points made by Senator Roth.

7           The Chairman. Would you want to wait?

8           Senator Baucus. No, I assume he will be here.

9           The Chairman. And when he gets here you can respond  
10 the second time.

11          Senator Baucus. Yes, the second time.

12          Mr. Chairman, I would just like to point out that I  
13 think Article 28 is a good procedure to follow, basically  
14 because it is designed to lower trade barriers. It is  
15 designed to help improve more trade between countries. In  
16 this case, that is we are talking of Article 28  
17 essentially because of Canadian trade barriers.

18          And the Canadian trade barriers we all know are the  
19 practice of the Canadian Wheat Board on the transportation  
20 subsidies. In fact, I might say, Mr. Chairman, that the  
21 historical average of Canadian shipments to the United  
22 States in the last 10 years has been about 500,000 tons of  
23 grain total. Last year it was 2.7.

24          It is very clear that there is a combination of  
25 transportation subsidies in Canada which we do not have in

1 the United States, along with the practice of the Canadian  
2 Wheat Board to undercut the market price that caused that  
3 2.7 million shipment from Canada to the United States.

4 So the point of Article 28 really is another way to  
5 address other country's trade barriers. It has a certain  
6 feel because it does require, frankly, an act of Congress  
7 to implement whatever agreement the administration may  
8 come up with.

9 Second, it is an agreed upon mechanism. That is, we  
10 agree on whether or not to implement the tentative  
11 agreement that the Executive Branches would have come up  
12 with. Which I might say, all things being equal, better  
13 than, you know, other action that a country might take.

14 We Americans are very concerned, at least those of us  
15 in the high plain States that produce a lot of wheat, we  
16 are very upset frankly with the amount of wheat that has  
17 come down. It is unfair. It is trade barrier. Subsidies  
18 are a trade barrier and as a very egregious trade barrier,  
19 we have to deal with it.

20 Another option would be so-called Section 22.  
21 Section 22 is a process in our trade laws which enables  
22 the United States to take unilateral action against  
23 another country. Now, the trouble is that is unilateral.  
24 It is also not necessarily -- and it would not be agreed  
25 upon. Third, it is probably temporary in nature. It is

1 hard to get some permanence.

2 So essentially Article 28 is another arrow in our  
3 trade quiver which enables us to address trade barriers.  
4 I think most of us in this committee are trying to find  
5 ways to lower trade barriers. Article 28 is a way to  
6 lower trade barriers. It is also a way that contemplates  
7 an agreed-upon solution, which is obviously preferable to  
8 a solution that is not agreed to. And third, it adds a  
9 little more permanence to a solution which is always  
10 helpful. Uncertainty tends to breed confusion and cause  
11 people to be upset in one way or another.

12 So I just generally want to make the point that I  
13 think that the administration's proposal or some variation  
14 of it is good trade policy because it is designed to lower  
15 trade barriers. I think most people on this committee  
16 would like to see lower trade barriers. Because lower  
17 trade barriers generally enure to the benefit of the  
18 United States.

19 The Chairman. Thank you, Senator Baucus.

20 Senator Conrad. Mr. Chairman?

21 The Chairman. Senator Conrad?

22 Senator Conrad. Mr. Chairman, I, too, would like to  
23 respond to some of the statements that were made earlier  
24 and also have a chance to lay out for colleagues what we  
25 believe is an overwhelmingly strong case to follow the

1 administration's lead and to use an Article 28 authority  
2 to enhance the negotiating position of the United States.

3 Mr. Chairman, we have just had an ITC determination  
4 that was not wishy-washy at all. Three commissioners  
5 found material interference. Three additional  
6 commissioners found interference. All six found  
7 interference. All six said there ought to be limitations  
8 imposed because of unfair trading practices by our  
9 neighbors to the north.

10 Mr. Chairman, here is the pattern, if I can just  
11 alert my colleagues, here is what has happened in durum  
12 wheat since the Canadian Free Trade Agreement. A stunning  
13 increase --

14 The Chairman. Could I ask, sir, you begin in what  
15 year?

16 Senator Conrad. In 1985-86.

17 The Chairman. 1985-86.

18 Senator Conrad. Back at the time of the Canadian  
19 Free Trade Agreement, no durum wheat was coming into this  
20 country -- none. This is not a matter of one side being  
21 more competitive, sending in wheat because they are  
22 sending it because they are more efficient. This is a  
23 result of an unfair trade practice, found so by all six  
24 members of the ICC.

25 Mr. Chairman, if I could just show what has happened

1 to us. Durum wheat costs about \$5 a bushel. And under  
2 the terms of the trade agreement, we do not count 45 cents  
3 a bushel transportation subsidy; and we do not count the  
4 final payment made by the Canadian Government to its  
5 farmers which has now reached \$2.21 a bushel.

6 So even though the terms of the agreement say clearly  
7 neither side shall sell into the other's market at below  
8 its full acquisition cost, the definition of acquisition  
9 cost leaves out 45 cents a bushel of a transportation  
10 subsidy that Canada has, leaves out a final payment made  
11 by the Canadian Government to its farmers of \$2.21 a  
12 bushel.

13 So the result is, as long as they sell into this  
14 market at above \$2.32, they are not dumping it below their  
15 full acquisition cost. It is an absolute fiction. That  
16 is why, Mr. Chairman, there needs to be a negotiated  
17 result. That is what the administration is seeking to do.  
18 The Trade Ambassador we talked to this morning, Senator  
19 Baucus and I -- we just got off the phone with him an hour  
20 ago -- he said you have to give me this authority so that  
21 I can negotiate a reasonable result.

22 If a reasonable result is not negotiated, the  
23 administration is going to invoke Section 22 authority and  
24 sanction Canada on Monday. That is where we are.

25 If we want to avoid that, then we give the

1 administration this authority so they have greater  
2 strength in these negotiations, so that hopefully we can  
3 avoid taking Section 22 sanctions against Canada.

4 Mr. Chairman, I really hope that we find a way to  
5 bridge the differences here. I have written language that  
6 says we ought to use this as leverage for all of the  
7 commodities where there is an ongoing negotiation. In  
8 other words, use this leverage to get a result not only  
9 for wheat, not only for barley, but for dairy and poultry  
10 and the other commodities that are in negotiations as  
11 well.

12 In other words, to do something that is a win-win for  
13 the entire market opening of the United States.

14 The Chairman. Thank you, Senator. We will be  
15 discussing this with Ambassador Yerxa and all.

16 Senator Pryor, before we left I had recognized you.

17 Senator Bradley. Mr. Chairman, you recognized  
18 Senator Pryor and then I.

19 The Chairman. Is that right?

20 Senator Bradley. Sure.

21 The Chairman. Senator Pryor?

22 Senator Pryor. Mr. Chairman and colleagues, I have  
23 spent considerable time in the last few days and the last  
24 couple of weeks especially with my good friend, and ally,  
25 and colleague, Senator Conrad; and I know exactly, I

1 believe, where he is coming from. I know what he is  
2 intending to do.

3           However, Mr. Chairman, I think really looking and  
4 studying this issue, this is going to be a possible or  
5 maybe even a classic case of unintended consequences. We  
6 are talking about finding some way to prevent what Senator  
7 Conrad characterizes, and what I agree, is an unfair  
8 situation with regard to wheat.

9           However, what I do not think we are doing is going to  
10 the next logical step, asking ourselves what is going to  
11 happen? Who are the Canadians going to retaliate against?  
12 And the answer is, I think, it will be further agriculture  
13 products. I think it was that simple. I may be over  
14 simplifying it.

15           On April 18 it was stated by the Canadian Agriculture  
16 Minister that agriculture imports into Canada would be  
17 retaliated against if this tariff was, in fact,  
18 constructed. I think, too, that as we study this issue  
19 that we are looking at a very dangerous thing. That is,  
20 we our crops, our States with various crops or different  
21 crops, should not be placed in a battleground or an arena  
22 where we have to fight one another. That is not what this  
23 should be about.

24           We should be assisting one another. We want to  
25 assist the wheat growers and those who are wanting to sell

1 more wheat. But I think we have to realize that all of  
2 this has to be well-balanced and well thought out.

3 I hope this vote never occurs, Mr. Chairman. I  
4 really do, because it hits one crop or one State or one  
5 section against the other. I do not think that that is  
6 good. I am hoping that negotiations will continue until  
7 the time for the vote might occur. I hope that vote does  
8 not occur. And I know that there may be some surprise  
9 around, saying here is Old Pryor opposing the  
10 administration.

11 I am not opposing the administration. I think that I  
12 have tried to support the administration as well as I can.  
13 But on this particular concern, I hate to say I think the  
14 administration needs to rethink this a little bit. Maybe  
15 some negotiations will take place before this vote will  
16 occur.

17 The Chairman. I am sure they will. Thank you,  
18 Senator Pryor.

19 Senator Bradley?

20 Senator Bradley. Did Senator Baucus want to join? I  
21 will go after Senator Baucus.

22 The Chairman. Senator Baucus has spoken. Do you  
23 want to speak?

24 Senator Baucus. I have a very short statement again.  
25 Go ahead. I have already spoken.



1           Senator Bradley. I had another matter that I was  
2 going to talk about.

3           Senator Baucus. About 28?

4           Senator Bradley. Well, I was going to get to Section  
5 28 in a second. Why do you not go ahead and then I will  
6 cover it?

7           Senator Baucus. Mr. Chairman, just very briefly, I  
8 appreciate the comments the Senator from Arkansas made.  
9 This is a standard garden variety situation. A foreign  
10 country has a trade barrier -- a pure, simple trade  
11 barrier, undisputed, total agreement. Canadians have  
12 elected a trade barrier. It is a subsidy. Subsidies are  
13 trade barriers just like tariffs. It is a trade barrier,  
14 a classic case.

15           Point number two. We want to do something about it  
16 because it is wrong. So we implement a Section 22 or a  
17 Section 28 and we take action.

18           Point number three. Base threatens to retaliate. It  
19 always happens. The offending country threatens to  
20 retaliate.

21           The next question. What do we do about it? If they  
22 threaten, oh, my gosh, they may retaliate. If we always  
23 listen to their threats, we will never address trade  
24 barriers. If we listen to their threats, they will always  
25 threaten because they know they have a good deal. They

1 want to keep a good deal. We always listen to them, then  
2 we do not do anything.

3 We have no choice. We have to address foreign  
4 country's trade barriers. We have to or else we might as  
5 well not pass a trade bill, forget it, go home, dismiss  
6 this committee, not take implementing language to the  
7 floor, forget it. The whole point of this legislation is  
8 to reduce trade barriers. That is what we are trying to  
9 do here.

10 I say either we do what we are supposed to do --  
11 reduce trade barriers -- or pack up, forget it and go  
12 home. Countries after they threaten look to see what the  
13 United States' reaction will be. Too often, we give in.  
14 Oh, my gosh, they might do something bad.

15 If we do not give in, what happens? Nine times out  
16 of ten when we call their bluff they back off. Why? Two  
17 reasons. Number one, they know they are wrong. They know  
18 they are wrong. They know that they did not get away with  
19 their bluff, away with their threat. That is the main  
20 reason they usually back off.

21 Number two, they usually back off because they do not  
22 want a trade war. Most countries do not want a trade war.  
23 There have not been any trade wars since Smoot-Hawley.  
24 There have not been any.

25 Countries tend to threaten, but there has never, ever

1     been a trade war of any consequence since Smoot-Hawley.  
2     Let me tell you something else, there never will be one.  
3     There never will be one. And there never will be one  
4     because the world is so much more complicated, which is so  
5     much more intertwined, interconnected and because trade  
6     wars hurt both countries or all countries much more than  
7     do they help them.

8             So we are here to try to do what is right. And what  
9     is right here is to knock down a foreign trade barrier.  
10    It is Article 28 -- in my judgment it is also Section 22  
11    because that really focuses in on the problem. So I urge  
12    us to come together, knock down foreign countries trade  
13    barriers, and if there is a trade barrier that adversely  
14    affects poultry, affects dairy, we will deal with that  
15    too.

16            But let us deal with these trade barriers for  
17    America's benefit.

18            The Chairman. Thank you.

19            Can I just, if Senator Bradley would indulge a brief  
20    remark, New York State is a wheat growing State. Of our  
21    62 counties we grow wheat in 50. We are the original wheat  
22    growing exporters of this country. So we know something  
23    about it.

24            But I have another thought in mind, which is, when  
25    the base closing commission announced its decisions last

1 year, it was devastating for us to learn that the United  
2 States is now going to close the Plattsburg Base on Lake  
3 Champlain, which was built in 1818 as part of our defenses  
4 against an impending invasion from Canada.

5 Now, if we can see that this wheat dispute grows  
6 sufficient rancorous --

7 (Laughter.)

8 The Chairman. -- the likelihood of keeping the  
9 Plattsburg Base open is very considerable. I have to let  
10 you know in all candor that this enters my calculations.

11 Senator Bradley?

12 Senator Bradley. Mr. Chairman, since the mission of  
13 the Plattsburg Base was transferred to McGuire Air Force  
14 Base in New Jersey, I do not know how I am going to --

15 (Laughter.)

16 The Chairman. Yes.

17 Senator Bradley. Mr. Chairman, listening to the  
18 discussion here, it seems to me that Article 28 is kind of  
19 the atomic bomb of trade policy. You know, we fought a  
20 cold war and we did not have a war because there was  
21 mutual assured destruction.

22 Once you use the weapon that you had you are likely  
23 to be destroyed yourself. I tend to think that if you use  
24 Article 28 on wheat that the poultry industry could die in  
25 terms of retaliation. And who knows what else? And that

1 is the occasion for the comment of the two Senators from  
2 States with a great concentration of the poultry industry  
3 -- Delaware and Arkansas.

4 We do have a dispute settlement mechanism. Four of  
5 six ITC commissioners have argued for a 10 percent tariff.  
6 I would hope that we would proceed cautiously here before  
7 we decide to use the atomic bomb of trade policy without  
8 any certainty that the other side is not going to  
9 retaliate. That way also we would keep the Plattsburg  
10 mission at McGuire.

11 Senator Roth. Mr. Chairman?

12 The Chairman. There you have come -- as usual, you  
13 have managed to optimize outcomes for the State of New  
14 Jersey and the people of the United States.

15 I guess we would give a right of reply to Senator  
16 Roth, and then Senator Daschle asked to speak, and then  
17 Senator Conrad. We do not want to spend all morning on  
18 this. Let us get done in 15 minutes. Right?

19 Senator Roth. Mr. Chairman, this is a matter of  
20 great concern.

21 The Chairman. Well, we will have a real debate on  
22 actual decisions.

23 Senator Roth. I just wanted to point to the debate  
24 of charts. Is that poultry takes up 16 percent of our  
25 trade with Canada compared with 1.8 on wheat. Now the

1 dairy products, which is also at risk, is 6.2; eggs 22.1.  
2 And I would just like to echo what Bill Bradley said. Are  
3 we going to use the atomic weapon and put at risk what is  
4 a great opportunity for increased trade on the part of the  
5 United States.

6 I would like to underscore that there is an  
7 opportunity in poultry alone to increase trade over a  
8 period of years as much as \$350 to \$700 million. So we  
9 are not talking about peanuts.

10 It was my thought that the whole purpose of the  
11 Uruguay Round was to open trade, to make our markets  
12 accessible.

13 Now, I would hope we could reach some kind of  
14 agreement so we do not go to a vote. I would agree with  
15 that. But just let me point out that there is a serious  
16 question as to what happened to the wheat market in the  
17 United States. It is arguable that one of the reasons we  
18 imported more from Canada is because we are exporting more  
19 through our export program and the floods and other  
20 weather conditions reduced the amount of supply here.

21 The point I am trying to make, Mr. Chairman, the  
22 whole point, if I support Uruguay Round is because I think  
23 it is going to increase access. It is going to increase  
24 trade and not the opposite.

25 The Chairman. Thank you, Senator Roth.

1           And now the last comments on this -- Senator Daschle  
2 and Senator Conrad -- because we want to hear Ambassador  
3 Yerxa's final proposals.

4           Senator Daschle. I will be very brief. First, I  
5 think that no one disagrees about the need to open trade.  
6 The question is, how do you get there? Can we use the  
7 mechanisms that GATT provide to help us increase the flow  
8 of trade both ways between Canada and the United States.

9           One issue that has not arisen yet in this discussion  
10 is the cost of the Federal Government. I know that we  
11 struggling to find the offset required to pay for GATT.  
12 Well, somebody ought to be cognizant of the fact that we  
13 may need an offset for this. This cost to the Federal  
14 Government is estimated to be \$600 million over a four-  
15 year period of time.

16           Senator Bradley. How about the tax exemption to  
17 ethanol?

18           Senator Daschle. Well, we will get into that, too.  
19 But that is an opportunity to further reduce the cost of  
20 the Federal Government. But certainly with regard to this  
21 particular matter, we are told by the USDA and the  
22 Congressional Budget Office that the cost to the  
23 government is at least \$600 million -- over a half a  
24 billion dollars over a four-year period of time.

25           We were also told that because Section 22 may be too

1 consequential in terms of the action taken unilaterally by  
2 any country that we will find a much more GATT appropriate  
3 vehicle in the future to resolve trade disputes.

4 It was on that recognition that we are phasing out  
5 Section 22. Something that we have been able to use  
6 reliably for 60 years no longer will exist beginning in  
7 January of next year if this passes. We have no other  
8 mechanism but to use an Article 28. And an Article 28 we  
9 are told was a much superior alternative.

10 I think we have to be concerned about the hyperbably  
11 about what it really means. It has been called an atom  
12 bomb. I do not know if it is anything more than a  
13 mechanism by which we can bring all sides to the table.  
14 This does not require that an Article 28 be invoked. It  
15 simply requires the administration use Article 28 to bring  
16 them to the table to try to resolve this difference  
17 through negotiations. That is what it does and I think it  
18 is very important we realize the consequences.

19 Senator Baucus. Would the Senator yield at that  
20 point? I might point out, too, this requires an act of  
21 Congress. I mean, any Article 28 agreement must be  
22 implemented by the Congress. So there is plenty of  
23 opportunity to diffuse the potential --

24 The Chairman. Ambassador Yerxa?

25 Ambassador Yerxa. Well, under this proposal this



1 would give us the authority to claim these changes. That  
2 is, it would give the President the authority to proclaim  
3 the changes.

4 Senator Pryor. So it would not require an act of  
5 Congress; is that correct?

6 Ambassador Yerxa. Not if it is pursuant to an  
7 Article 28 process.

8 Senator Bradley. And let me check, the last time an  
9 Article 28 was used was when, in the 1970s sometime?

10 Ambassador Yerxa. Yes, it was probably in the  
11 follow-up to the Tokyo Round Agreement.

12 Senator Conrad. Mr. Chairman?

13 The Chairman. A final comment from Senator Conrad.

14 Senator Conrad. Mr. Chairman, I would like to go  
15 back to this question of trade barriers. Canada has  
16 erected a wall against our wheat. They use what is called  
17 an end-use certificate to keep us from moving wheat north.

18 They have flooded our market. They have taken 30  
19 percent of the U.S. durum market. Again, not because they  
20 are more efficient, not because they are more competitive,  
21 but because they have massive subsidies that do not count  
22 under the terms of the agreement.

23 The International Trade Commission has found that  
24 there ought to be restrictions put in place because Canada  
25 is engaged in a pattern of unfair trade practices. So the

1 question is: How do we respond? I would ask you to ask  
2 yourselves, if you have a commodity that is being  
3 victimized as a result of unfair trade practices, how do  
4 you get it resolved? How do you get it changed?

5 I can tell you, we have spent a year-and-a-half  
6 trying to get a resolution, but only two ways. One is a  
7 Section 22 action. Let me emphasize, the administration  
8 is prepared on Monday of next week to sanction Canada.  
9 All of the fears of retaliation may begin next week. That  
10 is under Section 22.

11 For those who want to avoid that prospect, perhaps  
12 the best single way is to give the administration Article  
13 28 authority so there can be a negotiated result, so we do  
14 not get into the pattern of sanction and retaliation.

15 Mr. Chairman, the reference to Article 28 as the  
16 atomic bomb of trade policy I think is, you know, it is a  
17 rhetorical device. But really it misses the point. The  
18 atom bomb as everyone knows of trade policy is Super 301.  
19 That is the atom bomb.

20 Article 28 is the provision that is provided for in  
21 trade law to get redress of a grievance. If you are  
22 victimized by unfair trade, that is the procedure one  
23 follows to get redress. That is what we are seeking to do  
24 and I would ask my colleagues to put themselves in our  
25 shoes.

1           With respect to dairy and poultry, there are really  
2 two separate issues. Under NAFTA and GATT, Canada is  
3 required to go to a tariff on those commodities and has to  
4 go to a zero tariff over time. That is what is going to  
5 open up the Canadian market. That is not jeopardized by  
6 what we are doing here, giving the administration  
7 authority to use Article 28, to get a redress of what has  
8 been unfair with respect to our commodity.

9           Dairy and poultry have been also the focus of an  
10 unfair trade restriction by Canada. But that has been  
11 addressed in the combination of NAFTA and GATT that  
12 requires them to tariffy and go to a zero tariff. That is  
13 not jeopardized by our using an Article 28 to get the same  
14 kind of redress that dairy and poultry are seeking.

15           Senator Bradley. What is the administration's  
16 position on this?

17           Ambassador Yerxa. We are submitting this proposal  
18 for Article 28 authority. So I mean obviously we favor  
19 it.

20           Senator Bradley. And if it is granted you will not  
21 do Article 22 on Monday? Will you do Article 22 on  
22 Monday?

23           Senator Conrad. Section 22.

24           Senator Bradley. I mean Section 22.

25           The Chairman. Ambassador, I implore you, do not

1 answer that question.

2 Ambassador Yerxa. I was going to say that is a  
3 presidential determination. I am not going to address it.

4 The Chairman. You and Senator Bradley can have a  
5 private conversation.

6 Senator Conrad. Could I answer the question?

7 Senator Bradley. You made the point and I think --

8 Senator Conrad. They are going to use Section 22 on  
9 Monday if they do not get a negotiated result. The  
10 Canadians are here right now negotiating and that is why  
11 the Trade Ambassador has told us we need this authority.

12 The Chairman. Is it not appropriate for us to let  
13 the Executive negotiate in their own judgment and we will  
14 know by Monday, will we not?

15 (Laughter.)

16 The Chairman. Now, you have a proposal for fast  
17 track authority. I wonder if we cannot get to that  
18 because it is a very important proposal.

19 Ambassador Yerxa. Yes. I would like to first of all  
20 briefly give you an overall view of the proposal we have  
21 submitted and then make a couple of general points about  
22 the importance of trade agreement, trade negotiating  
23 authority, Mr. Chairman.

24 The summary we have given you, "Proposal for Fast  
25 Track Authority," describes essentially two basic grants

1 of authority. One is the traditional form of tariff  
2 proclamation authority. We are asking for a seven-year  
3 grant of the authority to enter into tariff trade  
4 agreements and to proclaim the modification or  
5 continuation of existing tariffs.

6 This is much the same kind of proclamation authority  
7 that was used to negotiate NAFTA and the Uruguay Round.  
8 We were also asking for authority for seven years to enter  
9 into bilateral regional or multi-lateral trade agreements,  
10 providing for the reduction or elimination on tariff  
11 barriers and to bring those agreements back to Congress  
12 under fast track procedures.

13 We have, of course, included some important  
14 procedural safeguards, which we are certainly willing to  
15 discuss with the committee about means that you might want  
16 to consider to strengthen those safeguards. But let me  
17 say this about the proposal we submitted.

18 It would require an elaborate prenegotiation and  
19 consultation procedures with the Committee on Finance and  
20 the Committee on Ways and Means prior to the entering into  
21 of any particular negotiation. And in those consultations  
22 we would have to come before you and lay out specific U.S.  
23 objectives for those negotiations. That is to spell out  
24 in detail exactly what we would hope to achieve in a  
25 particular negotiation, whether it is multi-lateral,

1 regional or bilateral.

2 Then there would be a fast track procedure for the  
3 committees through a resolution of disapproval to  
4 disapprove of the use of fast track for such a negotiation  
5 if you did not agree with our negotiating objectives.

6 The Chairman. Is there any substantial difference  
7 between the fast track authority you are requesting here  
8 and that under which you have produced in the Uruguay  
9 Round?

10 Ambassador Yerxa. There are a couple of differences  
11 which I will get to. This prenegotiation notice and  
12 consultation was, I think, included in the prior  
13 authority. So that is not different. There is some  
14 difference with respect to the post-negotiation  
15 consultations. Because under the fast track procedure  
16 that is being used for the Uruguay Round Agreement, we  
17 have a 90-day advance notification requirement.

18 You remember on December 15 we notified the Congress  
19 of our intention to enter into an agreement on April 15.  
20 That was a 90-day notification period. I am sorry, no, I  
21 am wrong about that. That was a 120-day period, because  
22 when you extended fast track authority last year in 1993,  
23 you changed it from 90 to 120 days.

24 And this would carry forward the 120-day notification  
25 that you used in that extension. So it would give a

1 longer period than was traditionally the case.  
2 Traditionally we only gave 90 days. This is an important  
3 period, obviously, because it is before we actually sign  
4 the agreement and it provides for longer consultations  
5 with the committees before actually signing an agreement.

6 We are also proposing that the period for  
7 consideration of the actual bill --

8 The Chairman. These are unimportant details. Tell  
9 us about your negotiating objectives.

10 Ambassador Yerxa. All right. I would be glad to.  
11 We have proposed overall and principal negotiating  
12 objectives for agreements which would be subject to fast  
13 track procedures.

14 The overall objectives are stated very broadly to  
15 obtain more open, equitable and reciprocal market access  
16 reduction of barriers, et cetera, et cetera, very much  
17 taken from the same kind of basic overall objectives that  
18 were stated in the 1974 Trade Act and in the 1988  
19 extension.

20 Principal negotiating objectives are set out for  
21 services, financial services, foreign direct investment,  
22 intellectual property, labor standards, trade and  
23 environment and transparency and they provide for the  
24 elimination and reduction of barriers in these areas,  
25 furthering the promotion of adequate and effective

1 protection of intellectual property, for example.

2 They also address issues such as the promotion of  
3 internationally recognized labor standards and ensuring  
4 that their denial is not used to gain competitive  
5 advantage in international trade and also to ensure  
6 compatibility between environmental and trade rules and  
7 obtaining broader application of the principle of  
8 transparency.

9 Now, many of these principal objectives are similar  
10 to those set forth in 1988 Act. However, the list is  
11 shorter because many of our principal objectives from the  
12 1988 Act were accomplished in the Uruguay Round. So,  
13 obviously, there is no need to restate them. And, of  
14 course, some of them are stated differently. In the case  
15 of the environment it is new language.

16 Let me briefly, Mr. Chairman, discuss the importance  
17 that we see for trade negotiating authority. I think all  
18 the committee would agree to the critical long-term  
19 national economic interest we now have in future trade  
20 agreements. Trade now as a proportion of our GDP exceeds  
21 28 percent. That is up from 14 percent in 1970.

22 Senator Packwood. What is that figure again, Rufus?

23 Ambassador Yerxa. 28 percent.

24 Senator Packwood. 28 percent of what? I missed the  
25 start.



1 Ambassador Yerxa. Of our GDP.

2 Senator Packwood. Is trade?

3 Ambassador Yerxa. Yes.

4 Senator Packwood. 28 percent of the entire GDP is  
5 now trade?

6 The Chairman. And we have doubled since 1970.

7 Ambassador Yerxa. Correct.

8 We obvious believe trade expansion is essential to  
9 maintaining a competitive economy. U.S. import barriers  
10 are still much lower than most other countries which we  
11 would likely be pursuing these fast track agreements with.  
12 I think the important thing here is that we need broad  
13 authority to exercise leadership in a rapidly changing and  
14 competitive global economy.

15 I would like to provide the committee with some  
16 charts which I think very much amplify on this point  
17 because it shows, I think, in graphic detail how the  
18 fastest growing economies in the world are the ones in  
19 which U.S. trade interests will have to be advanced the  
20 most in coming years, are in the economies of --

21 The Chairman. If you could bring them up, we will  
22 pass them around.

23 Ambassador Yerxa. Yes.

24 The Chairman. Ambassador, Senator Packwood is  
25 surprised by that 28 percent number. Perhaps you would

1 give us some data.

2 Senator Packwood. I just think it is a semantic  
3 thing. I mean, 28 percent of the entire GDP of this  
4 country is trade.

5 Ambassador Yerxa. Just so I am clear about what that  
6 figure represents, I am going to check on this, but I  
7 believe that includes trade in goods, trade in services  
8 and overall repatriated investment earnings.

9 Senator Packwood. All right.

10 Ambassador Yerxa. That is my understanding. But let  
11 me check on exactly what that figure is.

12 Senator Packwood. I appreciate would that, Rufus, if  
13 you would. Thank you.

14 Ambassador Yerxa. Yes.

15 The Chairman. You are saying that 28 percent of what  
16 is produced in this country is exported or includes  
17 repatriated investment earnings.

18 Senator Packwood. Or imports also.

19 Ambassador Yerxa. Imports, exports and international  
20 investment earnings, yes. That is my understanding of the  
21 figure.

22 The Chairman. A good table.

23 Ambassador Yerxa. I want to go on to point out that  
24 by far the fastest growing economies, the economies that  
25 will lead GDP growth in the world in the coming decade

1 will be Latin America, Asia and former communist  
2 countries.

3 The Chairman. Do you want to tell us what charts you  
4 are own?

5 Ambassador Yerxa. I am on Chart 2.

6 The Chairman. Do you not want to tell us anything  
7 about Chart 1?

8 Ambassador Yerxa. Well, Chart 1 simply shows that  
9 these are the countries -- low income and high income  
10 developing countries are also countries with the fastest  
11 growing population in labor forces and, therefore,  
12 obviously, the fastest growing consumer markets.

13 Senator Packwood. More people, more goods.

14 Ambassador Yerxa. Yes, exactly.

15 The Chairman. That is an impressive figure.

16 Ambassador Yerxa. Not, to go on, the fastest rates  
17 of economic growth by far are in the Pacific Basin,  
18 excluding Japan, the planned economies in transition and  
19 in Latin America. If you look at their growth rates in  
20 comparison to the growth rates in the industrialized  
21 economies you will find that these are the countries where  
22 the highest economic growth is going to occur and where it  
23 is estimated about two-thirds of the expansion of world  
24 trade will occur.

25 Senator Packwood. Let me ask you a question here,

1 Mr. Ambassador. On the planned economies in transition,  
2 does that include Russia? Is that the communist  
3 countries? Is that what that means?

4 Ambassador Yerxa. I think it includes --

5 The Chairman. Former communist countries.

6 Ambassador Yerxa. Yes. I think it includes all the  
7 former Soviet --

8 Senator Packwood. These are percentages. But in  
9 terms of population Latin America and Asia are infinitely  
10 greater markets that realize their percentages.

11 Ambassador Yerxa. That is correct.

12 Senator Packwood. So I do not want to be thrown off.  
13 The quantity that might be involved in trade with the  
14 planned economies in transition, even though the  
15 percentages and growth is sort of the same, the quantity  
16 of trade potential is in Latin America and Asia.

17 Ambassador Yerxa. Yes. In terms of overall quantity  
18 I would agree with that. Obviously, there is potential  
19 for great growth in these other countries; but in both  
20 Latin America and in the Asia Pacific you have relatively  
21 large populations and high GDP growth.

22 Senator Packwood. That is why I asked about if you  
23 exclude Russia you are talking about relatively modest  
24 populations in those transitions. No matter how well they  
25 transit, they are relatively modest populations.

1           Ambassador Yerxa. And if you look at Chart 3,  
2 Senator Packwood, I think it further clarifies that  
3 picture.

4           Senator Packwood. Yes.

5           Ambassador Yerxa. Because it shows where the highest  
6 growth in U.S. merchandise exports have been since 1985.  
7 It looks at current and projected exports for major  
8 markets. And if you look at our current exports, you will  
9 notice, for example, that our exports to Latin America,  
10 including Mexico, are almost equal now to our exports to  
11 the European Union and that the projections are by the  
12 year 2010, our exports both to Asia and Latin America,  
13 will far exceed our exports to either Europe or to other  
14 industrialized countries.

15           Senator Roth. How do Latin America and Asia compare?  
16 Which market is the largest and where do you expect the  
17 greatest growth?

18           Ambassador Yerxa. Well, right now, actually, if you  
19 include Mexico as part of Latin America, our current  
20 exports to Latin America I think right now are -- I'm  
21 going to have to check the exact figure, but I think it is  
22 \$75 billion; and to Asia they are slightly higher but not  
23 -- of course, this is Asia, excluding Japan.

24           Senator Roth. But if you include Japan? What I am  
25 trying to determine is, which is the greatest market of

1 growth for us in the next couple years.

2 Ambassador Yerxa. The fastest growth rates are in  
3 Asia and that's occurring from a larger base than Latin  
4 America. But the growth rates in Latin America are quite  
5 close to those in Asia and are increasing. So as we have  
6 seen economic liberalization in Latin America, we have  
7 seen --

8 Senator Roth. Is Latin America included there?

9 Ambassador Yerxa. Yes. The percentage growth rates  
10 have been increasing.

11 Senator Roth. How about the actual GNP of those  
12 regions and their growth?

13 Ambassador Yerxa. Well, I would have to check with  
14 you exactly what the base is for each of these two  
15 categories -- Asia excluding Japan and Latin America.

16 Senator Packwood. On these now on Chart 3, these are  
17 not percentage growth, these are dollar growth.

18 Ambassador Yerxa. That is correct.

19 Senator Packwood. So those are tremendously  
20 impressive figures when you are looking at dollar growth.

21 Senator Baucus. But I might ask, let us take on  
22 Chart 3, Latin America, including Mexico, we already have  
23 an agreement with Mexico under NAFTA.

24 Ambassador Yerxa. Yes.

25 Senator Baucus. If you took Mexico out, then what

1 would that bar be?

2 Ambassador Yerxa. Once again, I am going to have to  
3 check with you. Obviously, Mexico is -- a little more  
4 than half of our exports to Latin America are to Mexico.

5 Senator Baucus. So the bar would then be half as  
6 high?

7 Senator Packwood. But even half as high, it is still  
8 a bigger bar than any other part of the world except Asia.

9 Senator Baucus. Right. But I am just trying to  
10 point out that perhaps we are talking about fast track in  
11 future trade agreements. Mexico already has a trade  
12 agreement, so that bar is really misleading. It really  
13 should be half.

14 Ambassador Yerxa. But I think it is important,  
15 Senator Baucus, if we are talking about trying to create a  
16 Western Hemisphere trading sphere, obviously looking at  
17 the totality of the picture in Latin America is important.  
18 I agree with you, we could look at it for the rest of  
19 Latin America. I think what you would find is, first of  
20 all our exports to those countries have been increasing  
21 substantially and their growth rates are very high.

22 Senator Baucus. I understand what you are saying.  
23 Again, in terms of potential future trade agreements, if  
24 that is what the whole point of discussion is, you know,  
25 it is more relevant if we looked at areas of the world of

1 where we are talking about potential future trade  
2 agreements.

3           Ambassador Yerxa. The basic point I want to try to  
4 leave with the committee is, what is at stake here in this  
5 discussion of whether or not to extend authority is  
6 whether the United States is going to be able to move  
7 actively in promoting expanded trade and in promoting new  
8 regional, bilateral and multi-lateral arrangements or  
9 whether the United States is going to be sitting on the  
10 sideline while other countries negotiate these kinds of  
11 agreements.

12           I think it really would be contrary to our long-term  
13 national interest not to have the authority to negotiate  
14 these kinds of agreements, understanding that they have to  
15 be brought back to the Congress, understanding that before  
16 we engage in a particular negotiation we have to work out  
17 with you the specific objectives. But the overall  
18 question here is whether the United States in a period of  
19 dynamic change and a period of rapid economic growth  
20 around the world, whether the President of the United  
21 States is going to have the authority to negotiate.

22           Senator Danforth. Mr. Chairman?

23           Ambassador Yerxa. We believe that it is absolutely  
24 fundamental and we are willing, obviously, to work closely  
25 with the committee in defining procedural limitations on



1 the use of that authority and in resolving some of the  
2 obviously sensitive issues about how our objectives would  
3 be stated.

4 Senator Baucus. Thank you, Mr. Chairman.

5 The Chairman. Thank you, Ambassador Yerxa.

6 Senator Danforth?

7 Senator Danforth. Mr. Chairman, when fast track  
8 authority is granted and when negotiations are then  
9 entered into, there is an inexorable force working to  
10 bring those negotiations to conclusion.

11 It would be viewed as a major international event to  
12 enter into trade negotiations and then go nowhere. When a  
13 trade agreement is presented to Congress to vote on on a  
14 fast track basis, there is a tremendous pressure for  
15 Congress to vote in favor of the trade agreement.

16 So it is not really much solace to say that, well,  
17 once we give authority to negotiate a trade agreement of  
18 course this is something that has to come back to  
19 Congress. I think that the granting of fast track  
20 authority is itself a very, very weighty responsibility.

21 Now, the concept of opening up international markets  
22 is clearly very important. It has worked very well and it  
23 is very promising and very significant for the future of  
24 our country and for the future of the world. But it is  
25 also possible to use trade negotiations as a means not of

1 opening up international markets, but as a means of  
2 closing them down.

3 That is precisely my concern about the blue/green  
4 round issue. The blue/green round question, whether or  
5 not we should have trade negotiations tied to labor  
6 standards and tied to environmental standards is an issue  
7 involving using trade as a handle to accomplish other  
8 objectives.

9 Typically, those people in our country who have  
10 advocated doing that have not been free traders. It is  
11 not the free traders who say, well, let us have a blue  
12 round or a green round. It is not the free traders who  
13 attempted to attach the side agreements to NAFTA. These  
14 are people who basically did not like NAFTA. They did not  
15 want to open up trade. They were afraid of it. They were  
16 concerned about a sucking sound and they wanted to stop  
17 it.

18 The way they found to stop it or at least try to stop  
19 it, the desperate effort to try to stop it, was to add  
20 other things to it -- side agreements, side agreements  
21 involving labors standards, side agreements relating to  
22 environmental standards.

23 I see that happening again. If the objective is what  
24 Ambassador Yerxa says it is, well, then from the  
25 standpoint of this Senator, fine, have at it. Let us make

1 sure that we have good, sound negotiating objectives  
2 clearly stated by Congress in advance.

3 But my concern is that we can go the other way. We  
4 can march in the other direction, especially if it is true  
5 that the most promising countries for the future of trade  
6 are precisely those countries that would have the hardest  
7 time complying with our view of what labor standards  
8 should be and with our view of what environmental  
9 standards should be.

10 So I think that we have to be very careful about  
11 this. And I think we have to be very clear that when we  
12 set out negotiating objectives they do not include, they  
13 exclude going forward on this blue track or on the green  
14 track.

15 President Clinton was elected, I guess it was in his  
16 campaign, he said that he would support NAFTA but only  
17 with side agreements. And so late in the game, late in  
18 the negotiating game, the side agreements relating to the  
19 environment and relating to labor standards were caboose  
20 on and I do not want that to happen. I do not want that  
21 to happen.

22 I want us to face up to this issue now and it is  
23 worth debating right now in connection with this trade  
24 legislation. If we are going to have fast track authority  
25 that is granted, and I am not sure that, you know, it is

1 absolutely necessary to do that right now, but if we are  
2 going to do it, I think that we should have a very clear  
3 idea and a very clear statement as to whether or not we  
4 are going to include environmental negotiations and  
5 whether we are going to include labor standard  
6 negotiations.

7           Because if we are doing that, what that says is that  
8 we want our negotiators to develop concepts in which trade  
9 is not expanded but trade is contracted for the purpose of  
10 reaching extraneous objectives.

11           Senator Baucus. Mr. Chairman?

12           The Chairman. Thank you very much, Senator Danforth.  
13 That is obviously not the last word on this subject, and  
14 we want to pursue it.

15           Senator Baucus?

16           Senator Baucus. Thank you, Mr. Chairman. Mr.  
17 Chairman, I think a lot of what the Senator from Missouri  
18 said is valid, is important. He is right. Once we grant  
19 fast track, that is basically it. That is, there is an  
20 execrable freight train down the track. Countries do want  
21 to reach agreements once fast track is negotiated, and  
22 particularly this country.

23           This country somehow feels historically, and even  
24 today somehow is more responsibility than other countries,  
25 and consequently it is even more difficult for this

1 country to walk away from a trade agreement. I think  
2 other countries can walk away with a bit more ease than  
3 this country. But this country has a hard time walking  
4 away from a trade agreement, whether it is fair or unfair.  
5 We, as Americans, just have a hard time doing that.

6 Which means that as the Senator said we would have to  
7 think quite clearly about the authority that we delegate.  
8 Under Article I of the Constitution it is Congress that  
9 sets trade policy. It is not the Executive Branch. The  
10 Executive Branch under our constitution is charged more  
11 with foreign policy, whatnot. But when it comes to trade  
12 policy, it is clear that the Congress is provided to have  
13 greatest authority and say.

14 So it is important that we give the proper delegation  
15 to the Executive Branch so that it can properly negotiate  
16 trade agreements. The issue before us is not whether we  
17 negotiate future trade agreements. That is not the issue.  
18 It is not whether we sit down with Latin America, with  
19 Asia, developing countries and try to conclude agreements  
20 to liberalize trade. That is not the issue.

21 The issue is, you know, what are the parameters, what  
22 are the guidelines, what are the standards, what are the  
23 instructions, if you will, that the Congress feels it  
24 should give to our negotiators, the Executive Branch.

25 Frankly, I am not sure we need this negotiating

1 authority right now in fast track. We can always take it  
2 up next year. If we can find out a way to accommodate our  
3 interests here and with some consensus decide what the  
4 instruction should be, then maybe it could be included in  
5 this implementing language.

6 But if we do, I think it is frankly important to  
7 think through and get a better idea from the  
8 administration of what its objectives are. I do not know  
9 whether the primary objective is Asia. I do not know  
10 whether the primary objective is Latin America. I do not  
11 know whether the primary objective is the next round. The  
12 USTR has limited resources. It cannot do everything all  
13 at once.

14 It is important to know what the priorities are. It  
15 is important to know the time constraints it is operating  
16 under, that it imposes upon itself, by what year does it  
17 intend to attempt to negotiate an agreement with what  
18 country. I have no idea. They have not indicated to us.

19 With respect to environment, I must say it is an area  
20 where I respectfully do have an opinion that is a bit  
21 different from Senator Danforth, very simply because the  
22 environment is here. The trade policy, environmental  
23 policy has converged. The world has changed. We are  
24 dealing with both trade and environment. It is upon us.  
25 We cannot avoid it. We cannot get around it.

1           And that is why the President has negotiated an  
2 environmental side agreement to secure the passage of  
3 NAFTA, essentially it is because Americans realized that  
4 it was necessary for Canada, and particularly Mexico, to  
5 address American environmental concerns. Not only because  
6 of our desire to have cleaner air, cleaner water, and  
7 better ways to dispose of waste in Mexico, but more  
8 importantly so as not to give Mexico a competitive  
9 advantage -- a competitive advantage.

10           Because the more other countries do not address  
11 environmental concerns that we tend to address in our  
12 country the more we give other countries a competitive  
13 advantage because environmental regulations, environmental  
14 laws are a cost of doing business. If they are a cost of  
15 doing business in the United States, we hear it  
16 constantly, they are certainly also a cost of doing  
17 business in other countries.

18           So I believe, frankly, Mr. Chairman, that we have to  
19 give a little more thought to what the instructions are to  
20 the Executive Branch. I think the proposal before us is  
21 too broad. I also might say that the environmental  
22 reference is very broad, too. So that cuts both ways. It  
23 is not going to compel the U.S. to negotiate an  
24 environmental agreement with any country. But it is  
25 saying, okay, consider the environment too when you, the

1 United States Executive Branch is negotiating a trade  
2 agreement.

3 So I remember talking to the former Director General  
4 of the GATT, Arthur Dunkle, who told me the next round is  
5 going to be a green round. He said that, "The next round  
6 will be a green round." Well, I do not think we want to  
7 cut ourselves out of the next round. I think we want some  
8 instruction to our negotiators if we have another round  
9 that we also consider environmental policy.

10 Because after all, what this all comes down to is a  
11 sustainable development. Every one of us wants higher  
12 incomes for our people. We want economic growth. We also  
13 want it sustained. We want it to continue in the long  
14 term.

15 The most successful companies, the international  
16 companies, the companies that are not international, are  
17 the companies that recognize that principle and modify  
18 their production procedures to address the long term.  
19 That is not only for economic growth in market share and  
20 so forth, but also very strong environmental standards for  
21 themselves because they know in the long term that is  
22 really the only way to survive. It makes good sense.

23 Finally, Mr. Chairman, I might say I am a free  
24 trader. In advocating reasonable, responsible  
25 environmental language, I am saying that I am not



1 suggesting that to reduce trade. On the contrary, it is  
2 to expand trade not only for the mid- and short-term but  
3 for the longer term.

4 I voted for every trade agreement that has been in  
5 the Congress since I have been in the Congress -- the  
6 NAFTA round, with a fast track procedure; the Canadian  
7 Free Trade Agreement. I am not one who is a protectionist  
8 who suggests that this language be used to reduce trade.

9 Rather, it is to open trade because the time is here  
10 and we might as well face up to it and deal with  
11 environment on a responsible basis as we are concluding  
12 future trade agreements.

13 Thank you.

14 The Chairman. Thank you, Senator Baucus. I do not  
15 want to be repetitive in this regard, but on the question  
16 of labor standards the United States has been involved in  
17 agreements with other nations to maintain equivalent labor  
18 standards in order that they are not in consequence of be  
19 it trade advantage to that country, which does not do.

20 We have been involved with that for the whole of this  
21 century. I mean, it is quite literally 75 years ago,  
22 about 200 yards from the White House, in the Headquarters  
23 of the Organization of American States at Constitution  
24 Avenue and 17th Street that the first International Labor  
25 Conference met. These internationally recognized labor

1 standards that we referred to in the NAFTA are without  
2 exception.

3 They have their parallel in an international labor  
4 convention, which we adopted in 1991. I was the floor  
5 manager. The first to belong to the ILO since 1934, we  
6 adopted a substantive legislation, most recently the force  
7 to labor convention, by a vote of 97 to 0. I mean, it  
8 seemed to be in the interests of the United States to do  
9 this. So I just want to suggest that this is not novel.

10 The right to do it by executive agreement arose -- I  
11 do not have to tell Senator Danforth -- from the Supreme  
12 Court decision that an executive agreement with Canada on  
13 Canadian geese was within the power of the President. It  
14 was about 1907.

15 Senator Chafee?

16 Senator Chafee. Mr. Chairman, it seems to me that  
17 fast track is absolutely essential for our negotiators. I  
18 strongly believe in that. I have supported every fast  
19 track provision, and like Senator Baucus, I have supported  
20 every free trade agreement since I have been here. So I  
21 believe that when we send our negotiators off they have to  
22 be equipped with fast track capability.

23 Where I have misgivings, Mr. Chairman, on this  
24 legislation is putting the fast track renewal on a fast  
25 track bill. I mean, just from this discussion here you

1 can see that there is contention in connection, say, with  
2 this blue/green business.

3 Yet, under the proposal that we have before us, as I  
4 understand it, we would submit not only renewal of the  
5 fast track on a fast track measure, but also this  
6 blue/green. Now, what does it mean? It means that we can  
7 debate it and we can amend it but who for as our  
8 colleagues in the Senate cannot do that.

9 The Chairman. That is a fair point.

10 Senator Chafee. I think this raises very serious  
11 problems for our colleagues. As you know, Mr. Chairman,  
12 there is out there a belief that this is a rather special  
13 privilege reserved to the 20 members of this committee in  
14 dealing with fast track because a trade bill that comes  
15 through here is on fast track.

16 So when it gets to the floor they cannot amend it.  
17 They can vote yes; they can vote no. I know that it will  
18 be tossed up to me that, oh, yes, we have done this  
19 before. I believe in 1979 we renewed fast track on a fast  
20 track schedule.

21 The Chairman. We did.

22 Senator Chafee. But I think that is not -- I have  
23 really serious problems with whether we are dealing fairly  
24 with our colleagues out there. And if this is such a weak  
25 proposal -- you know, we are worried that they may not

1 approve it. So we tag it on to the GATT fast track  
2 figuring we will get a free ride there and they will not  
3 pay too much attention to this extension of whatever it  
4 is. Is it for negotiating with the Pacific Rim nations?  
5 Is it for negotiating with Latin American countries? I do  
6 not know. I take it we do not delineate, do we what it is  
7 for?

8 The Chairman. We can. But we have not. Ambassador  
9 Yerxa, the President is going to be meeting with the APEC  
10 countries. When is that scheduled?

11 Ambassador Yerxa. The APEC ministerial I think is  
12 scheduled for November.

13 The Chairman. In November.

14 Ambassador Yerxa. And the Latin American summit is  
15 scheduled for -- the Western Hemisphere summit is  
16 scheduled for December, I believe.

17 The Chairman. So I think if we look at that you can  
18 get some -- there is your likelihood that these would be  
19 with the APEC countries.

20 Senator Chafee. Well, if I understand this correctly  
21 what we are saying is, on the GATT approval, which is on a  
22 fast track, right --

23 Ambassador Yerxa. Yes.

24 Senator Chafee. It was given that a long time ago.

25 Now we are saying we are going to extend, have a new fast

1 track for, what, seven years?

2 Ambassador Yerxa. That is our proposal, yes.

3 Senator Chafee. And for what? For what anybody  
4 chooses?

5 Ambassador Yerxa. Well, I would like to say a thing  
6 or two about that because I recognize that on the face of  
7 it it is a broad grant of authority, as has been past  
8 grants of fast track authority. But I must say there --

9 Senator Chafee. I am sure I agree with you, Rufus,  
10 on that. I mean, when we have done it before, we knew --  
11 we certainly knew when we were doing the NAFTA that that  
12 is a fast track and it applies to NAFTA. And when we did  
13 the fast track on GATT we knew it was a fast track on  
14 GATT.

15 But it was not sort of a Chinese smorgasbord. Latin  
16 America maybe or Pacific Rim? I am for fast track. My  
17 principal point is that this can be looked on as cutting  
18 corners as far as our other Senators go out there.

19 Ambassador Yerxa. I understand that point. I was  
20 trying to say that when fast track was granted for  
21 bilateral agreements in 1984 it was not at that time  
22 necessarily contemplated that it would result in the  
23 Canada agreement or in NAFTA.

24 In fact, at that time the only agreement that was  
25 being talked about was a free trade agreement with Israel,

1 which was negotiated and completed under fast track  
2 procedures in 1985.

3 So I am suggesting that your actual objectives, the  
4 countries you actually finally decide to sit down and  
5 negotiate with, that decision evolves over time based on  
6 consideration of all kinds of factors. The practice has  
7 been to move very, very cautiously in this regard. You  
8 only move to actual negotiations with a country once you  
9 really become satisfied that you could come out of that  
10 negotiation meeting the kinds of objectives that would be  
11 required for a free trade agreement.

12 You know, in response to what Senator Danforth was  
13 saying, and I respect his past position on trade  
14 negotiations and trade agreements, but I must say that I  
15 wish I had known during the last seven years that I was on  
16 an execrable process towards an inevitable agreement in  
17 the Uruguay Round because I would have slept a lot better.

18 (Laughter.)

19 Ambassador Yerxa. But, you know, I was involved in  
20 that process when the negotiations broke down, when the  
21 United States walked away and said we were not going to  
22 finalize a deal, not once but twice, because we did not  
23 believe that the agreement that was being proposed was in  
24 any way adequate to meet U.S. objectives.

25 That is to suggest that we set very, very high

1 standards for these negotiations in these agreements. The  
2 reasons we have not specified precisely which countries  
3 and in which order, it is going to depend very much on how  
4 much these countries are willing to come to the table to  
5 present the kinds of commitments that we have obtained in  
6 the past, for example, in the Canada agreement or in the  
7 NAFTA agreement on a wide range of issues from  
8 intellectual property to tariff commitments to  
9 agriculture.

10 So this is a process which takes a great deal of  
11 time. I think it is something of a misnomer to call this  
12 fast track. You know, it is fast at the very end of the  
13 process after everything else is done and the agreement  
14 has been negotiated for years and years, the legislation  
15 has worked over with the relevant committees, the bill is  
16 introduced, only then do you have any kind of an  
17 abbreviation of the normal legislative process.

18 I think that ought to be kept in mind in considering  
19 exactly what you are giving the President here and what  
20 the potential consequences are of sending a signal to the  
21 world that at this moment the Congress does not believe  
22 that the President ought to have such authority.

23 The Chairman. Our principal purpose here, of course,  
24 is to see that the agreement that you did negotiate, you  
25 negotiated brilliantly, if I may, in fact comes into

1 effect. And Congress will be here next year. That can  
2 go. We will work this out.

3 But I would want to make the point that Senator  
4 Chafee -- I want to indicate my sensibility to Senator  
5 Chafee's question of how much legislative territory we  
6 sort of appropriate to ourselves in this process.

7 The fast track begins with the -- you know, we go  
8 back to the multi-lateral trade agreements which began in  
9 1934 under Cordell Hull and they were the original base  
10 closing commission, which is to say whatever you do, do  
11 not let this subject go to the Senate floor.

12 That has been our purpose, not to take over other  
13 areas of legislative concern.

14 Senator Baucus. Mr. Chairman?

15 The Chairman. Senator Baucus, we have just a few  
16 moments.

17 Senator Baucus. Right. I understand. Mr. Chairman,  
18 I think the Senator made a good point. It is my  
19 recollection that when we passed fast track in the past it  
20 was contemplating fairly precise negotiations. one was  
21 the Uruguay Round.

22 The Chairman. They were GATT negotiations.

23 Senator Baucus. GATT negotiations in NAFTA, for  
24 example. I must say this seven-year open ended causes me  
25 a considerable concern because it is just open ended. We



1 are not now contemplating any particular negotiations with  
2 any country that I am aware of.

3         Why not ask for fast track authority, Mr. Ambassador,  
4 until as was the case in past years the issue is more  
5 ripe? That is, you come to us with a more precise and  
6 more definite number of -- one or two countries or area of  
7 the world and so it is pretty clear to us what this is all  
8 about, so that when we are considering fast track  
9 negotiating authority, that is whether to delegate it or  
10 not, we have a better idea of the context of the  
11 delegating authority so that we can address some issues  
12 with those countries a little more precisely. Why does  
13 that not make more sense, which is what I recall was  
14 somewhat the situation in the last -- at least my  
15 impression is in the last 12 years.

16         Ambassador Yerxa. Let me ask Mr. Shapiro to respond.

17         Mr. Shapiro. Senator, if I could just respond. Our  
18 thought in this is that particularly with respect to Latin  
19 America where this administration and the prior  
20 administration had indicated its desire to move ahead with  
21 negotiations in the region, and we have spelled out in the  
22 reports to the Congress -- the March 1 and July 1 report  
23 -- we have tried to spell out how that region looks to us,  
24 starting with Chile.

25         In that region particularly that we need or believe

1 we need the authority to actually engage countries, bring  
2 them to the table in terms of deciding which are the  
3 serious opportunities. To some extent we are dealing here  
4 with a history for several years as you know where some of  
5 these countries have been expressing their interest and we  
6 have been expressing our interest.

7 And the next step in terms of seriousness we believe  
8 would be helped greatly if the President had the authority  
9 so that the negotiators were perceived as being ready to  
10 talk seriously at the table in these issues.

11 Senator Baucus. Why would not the shorter fast track  
12 extension make more sense, say, two years? For a couple  
13 of reasons, number one, you know, if you say seven years  
14 chances are, you know, under one of Murphy's Laws there is  
15 going to be no agreement until seven years from now.

16 Second, if it is two years, it is more likely that  
17 then either you have reached an agreement or about to  
18 reach an agreement or then you can come back and ask for  
19 an extension as has been the case in the past. We are,  
20 therefore, in the Congress in a better position to know  
21 what it is we are talking about. Why would not a much  
22 shorter -- in the interim you could be negotiating with  
23 these countries because you will have fast track  
24 authority.

25 Ambassador Yerxa. We are willing to talk with the

1 committee about duration. I mean, obviously, that is  
2 something where we, I think, would be prepared to be  
3 flexible and to try to work something out. There is some  
4 merit to what you say about deadlines -- the fast track  
5 deadline representing deadlines. Although I think  
6 certainly with respect to some of these countries in Latin  
7 America they are interested in moving on a faster schedule  
8 than that. They are interested in moving faster than over  
9 the full seven years.

10 But we could, I think, talk about some ideas for  
11 setting up some deadlines and changing the duration.

12 The Chairman. Well, on that positive note, let us  
13 thank you very much, Ambassador. Thank you, Mr. Shapiro.  
14 We thank, Mr. Figel and Ms. Miller. We will resume at  
15 10:00 tomorrow morning, by which time we hope to have some  
16 funding proposals.

17 Mr. Shapiro. Thank you, Mr. Chairman.

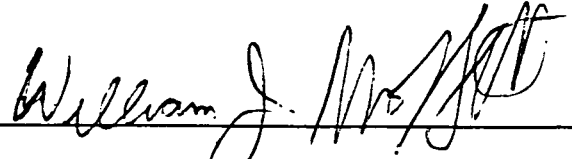
18 The Chairman. Thank you, sir.

19 (Whereupon, at 12:58 p.m., the meeting was recessed  
20 until 10:00 a.m. on July 28, 1994.)

21

C E R T I F I C A T E

This is to certify that the foregoing proceedings of an Executive Committee Meeting held before the United States Senate Committee on Finance on July 27, 1994, were transcribed as herein appears and that this is the original transcript thereof.



WILLIAM J. MOFFITT  
Official Court Reporter

My Commission Expires April 14, 1999

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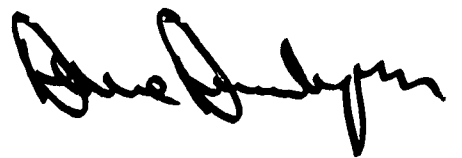
## EXECUTIVE SESSION

Wednesday, July 27, 1994 -- 10:00 a.m.

Room SD-215 Dirksen Senate Office Building

## A G E N D A

To consider recommendations for legislation to implement the Uruguay Round of Multilateral Trade Negotiations.



STATEMENT BY SENATOR DAVE DURENBERGER  
IN OPPOSITION TO THE BREAUX TEXTILES  
AND APPAREL RULES OF ORIGIN AMENDMENT

July 27, 1994

Mr. Chairman, I am opposed to the amendment offered by my colleague Senator Breaux to change the rules of origin for textiles and apparel from the point of cutting to the place of assembly.

This is a very major change that should not be considered in conjunction with the implementing legislation. It has always been my hope and expectation that the committee do the minimum necessary to implement the agreement and not use this as a vehicle for pursuit of individual Senators' trade agendas, much of which is controversial and deserves the usual hearing and debate practices. The Breaux amendment is highly controversial. The companies affected deserve an opportunity for comment. Many American firms will suffer severe disruptions to their business operations and incur substantial losses.

In addition, the proposed change would nullify and impair our trading partners' benefits under the GATT and new concessions from the Uruguay Round. It leaves US exporters exposed to cross-retaliation under the dispute settlement provisions of the new GATT. There is absolutely no guarantee that countries will not seek compensation in others areas or simply retaliate. We are starting to hear from them now. Other sectors such as agriculture, services, and those with intellectual property interests would be

particularly vulnerable. Mr. Chairman, I am not prepared to expose my constituents to that prospect.

Imposing this significant change with no opportunity for review or a proper evaluation of the costs incurred by American companies must be avoided. This amendment is clearly not in America's interest. I urge my colleagues to oppose this amendment.