

ORIGINAL

1 EXECUTIVE COMMITTEE MEETING

2 WEDNESDAY, JUNE 23, 1993

3 U.S. Senate,

4 Committee on Finance,

5 Washington, DC,

6 The meeting was convened, pursuant to notice, at 9:33  
7 a.m. in room SD-215, Dirksen Senate Office Building, the  
8 Hon. Daniel Patrick Moynihan (chairman of the committee)  
9 presiding.

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

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

16 Also present: Ira Shapiro, General Counsel, USTR;  
17 Marcia Miller, Chief International Trade Counsel.

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1           The Chairman. Good morning. This is a regular meeting  
2 of the Committee on Finance for the purpose of marking up,  
3 as is our term, legislation to extend the fast-track  
4 legislative authority to the President Executive Branch for  
5 the conduct of the Uruguay Round for the conclusion of the  
6 Uruguay Round.

7           As our very expert staff--there sits Marcia Miller--will  
8 tell us, it is the administration's intention to finish this  
9 negotiation by December, I believe, is the case. We have  
10 been at this since 1986.

11           Ms. Miller. Correct.

12           The Chairman. 1886. I stand corrected. Our sometime,  
13 once and future chairman, says 1886. And there comes a time  
14 when it must be finished. Under our bill, the President  
15 would have to notify the Congress by December 15, which is  
16 not far in distance, and actually enter the agreement by  
17 April 16 of 1994.

18           We are familiar with this legislation. It, as much as  
19 anything else, originated in this committee in 1974. It has  
20 worked well. It has served the Nation, I think, properly.  
21 We are, perhaps, at a more critical juncture than we know.

22           Most of us will have seen that yesterday the United  
23 States imposed very strict tariffs. I guess they would be  
24 countervailing, would they not, on 16 nations as regarding  
25 steel imports? I do not know that we have done anything

1 like that quite so drastic in a long time. And there is a  
2 general air of edginess about this. With that, some good  
3 signs.

4 The French evidently have come along to an agreement in  
5 agricultural matters that had not been there, so it might be  
6 here now. More is the reason to give the President the  
7 authority to negotiate, without which he cannot negotiate.  
8 If all the other heads of State send ministers who have a  
9 majority of their legislatures, their parliaments, and, by  
10 definition, they are ultra vires. Ours is not; we are  
11 singular in that regard. This gives our President and  
12 negotiators a level playing field.

13 I have a statement, very carefully crafted, in this  
14 regard which I would like to place in the record.

15 [The prepared statement the Chairman appears in the  
16 appendix.]

17 The Chairman. And I would ask my distinguished co-  
18 chairman, the Ranking Minority Member, if he would like to  
19 make a statement.

20 Senator Packwood. Mr. Chairman, the Republicans are  
21 delighted to be back to a bipartisan body.

22 The Chairman. Yes.

23 Senator Packwood. We are not wearing our name tags  
24 today.

25 The Chairman. Not wearing your name tags. Oh. There

1 you are. Thank you.

2 Senator Packwood. I strongly support this extension. I  
3 hope it is the last time we have to do a fast track  
4 extension for the Uruguay Round and that the administration  
5 can wrap this up by December. I can think of no more  
6 important piece of legislation to improve the economic basis  
7 of this country than this piece of legislation because, for  
8 better or for worse--and I think for better--our competition  
9 and our markets are international, and everything we can do  
10 to lower the barriers to trade tariff and non-tariff is a  
11 step in the right direction.

12 So, I strongly support reporting this out without  
13 amendments. I hope we can take it up next week, Mr.  
14 Chairman, and pass it before the July recess without  
15 amendments. You will have my strong support on it.

16 The Chairman. Well, thank you. And I would  
17 reciprocate. It was an omission on my part not to mention  
18 that we are gladly back in business together again. I note  
19 that there are more Republicans present than Democrats; the  
20 indefatigable free trader, Senator Danforth, is even now  
21 perusing his brief.

22 Senator Baucus, Chairman of our Subcommittee on Trade,  
23 is next.

24 Senator Baucus. Thank you very much, Mr. Chairman. I  
25 join you and Senator Packwood, and I think all members of

1 this committee, in approving this fast track delegation of  
2 authority. I also note that this is to conclude the Uruguay  
3 Round negotiations by the end of 1993, not by the end of the  
4 year.

5 And I say not by the end of the year because we have  
6 been saying not by the end of the year for many years now.  
7 And I hope that, finally, this is the year, in 1993, and I  
8 sense that it will be. It seems the way negotiations have  
9 been proceeding that, finally, we can get this done this  
10 year. And that is important because it would give us an  
11 opportunity to reach fruition in our market access talks  
12 between developing countries. And, also, I think the  
13 climate seems right for a market access deal by the Group of  
14 Seven by the July meeting. Irrespective of the changes in  
15 Japan, I still think it's possible to get that agreement in  
16 July.

17 And, if we can reach that initial deal in July, a deal  
18 that would include solid zero-for-zero tariff cuts and new  
19 market opening commitments, I think it is clear that then  
20 1993 will be the year. And, if done right, the Round will  
21 promote growth. One study is that it increased world DDP on  
22 an annual basis by as much as \$740 billion a year, and, for  
23 the United States, that would be \$65 billion a year.

24 I think it is still important, though, for all of us to  
25 remember that no agreement is better than a bad agreement.

1 We are always optimistic, the Americans, about concluding  
2 deals. And I think that, still, we Americans tend to be a  
3 little bit more optimistic than peoples in other countries.  
4 We tend to have a little better view of the world still,  
5 compared to other countries, that is concomitant with our  
6 sense of world responsibility. But, as we see our role as  
7 exercising world responsibility, I think there is a tendency  
8 for the United States to reach a deal a little more quickly  
9 than other countries. And that is a tendency I think we  
10 should hold in check, because the times are changing in this  
11 post-Cold War era.

12 It is important for the United States to negotiate good  
13 deals for America, as well as good deals for other  
14 countries. And, it would be my advice for the USTR and to  
15 the administration to remember, more than we have in the  
16 past, that no agreement is better than a bad agreement,  
17 recognizing that the Uruguay Round is not going to solve all  
18 the world's problems.

19 There is so much world trade today in goods and services  
20 that is not covered by the GATT; so much will not be covered  
21 by the Round. There are many other areas we have to pursue.  
22 I think that we should also look for some changes in the  
23 Dunkel draft. I think changes like better protection for  
24 patents in pipeline is advisable; shorter intellectual  
25 property transitions --

1 The Chairman. Patents and pipelines.

2 Senator Baucus. Patents in the pipeline.

3 The Chairman. In the pipeline.

4 Senator Baucus. In the pipeline. If we can get better  
5 pipeline patents, that is good too. But I am concerned more  
6 about the patents that are in the pipeline.

7 Shorter intellectual property transitions for developing  
8 nations. I also think it is important to lay the groundwork  
9 for the next Round, which will include environmental  
10 provisions.

11 We have a new Director General, but the last Director  
12 General was very clear when I spoke with him about the need  
13 for strong environmental provisions in the next Round. I  
14 think it's important to lay the groundwork for that in this  
15 ground.

16 And, lastly, Mr. Chairman, I think we need assurances  
17 that this Round will not significantly weaken our trade  
18 laws. There is a real danger that, as we reach agreements  
19 in market access and intellectual property, et cetera --

20 The Chairman. And the closing hours.

21 Senator Baucus. The closing hours, in the sense that we  
22 give up our right to use our trade laws. Because we must  
23 remember, our trade laws are market opening. They are not  
24 protectionist. Some across the Atlantic Ocean may have a  
25 contrary point of view, but, essentially, our trade laws are

1 market opening and we have to be very careful not to  
2 negotiate the other way.

3 But, in sum, Mr. Chairman, I appreciate what you are  
4 doing here. It is the right approach for us to take, to  
5 extend fast track authority without amendments. And I would  
6 urge the administration to take advantage of it and get a  
7 good deal.

8 The Chairman. Thank you, sir. And I would make the  
9 point that the present world trading system begins with  
10 Cordell Hull in this city and this committee, and we do not  
11 have to explain or apologize to anybody in that regard.

12 Ms. Miller, we are going to have a report accompanying  
13 our legislation. Surely it can contain the points made by  
14 Senator Baucus, subject to comment by others. I think those  
15 are good points. Let it be in black letter what we have in  
16 mind here.

17 Senator Grassley, good morning, sir.

18 This measure is S. 1003, introduced by myself, Mr.  
19 Packwood, Mr. Rockefeller, and Mr. Chafee. Senator  
20 Grassley.

21 Senator Grassley. Yes. Mr. Chairman, I want to state  
22 my support for renewal of fast track without any insinuation  
23 that the particular position our country is taking,  
24 particularly in agriculture, is necessarily the position  
25 that I think should come out of GATT. But I know that we



1 will not get any Uruguay Round or any other lessening of  
2 subsidization of free trade if we do not have the GATT  
3 process to continue. And the GATT process will not continue  
4 unless --

5 The Chairman. Senator Grassley, could I interrupt just  
6 for one moment, sir? Which is to say, that if the committee  
7 is agreeable, Senator Packwood has suggested that we have a  
8 rolling quorum which requires that 11 members of the  
9 committee appear at one point, but does not require that  
10 they be there at any fixed moment, if that is agreeable.  
11 Senator Packwood, that is your suggestion.

12 Senator Packwood. I suggested that, because I am going  
13 to the floor at 10:00 when we start the Budget Bill and  
14 would be there a fair portion of time. I am not sure we  
15 would have a quorum here all the time. I note that Senator  
16 Chafee has been here. But I think that we could report this  
17 out.

18 The Chairman. Thank you. I will remain, and, at a  
19 certain point we will go forward.

20 I apologize for interrupting you. I just wanted to  
21 establish that.

22 Senator Grassley. So, I feel that we must have fast  
23 track and that is why I support this legislation, and also  
24 support it without amendment because I think that we should  
25 get it through in a non-controversial fashion and get it

1 passed.

2 I think our goal has to be to retain U.S. leadership in  
3 the international economic arena, and it cannot be without  
4 our being part of that process. And that is true of GATT,  
5 as well as NAFTA and any other possible agreements that are  
6 necessary. I think that we lose real economic opportunities  
7 for ourselves, for the world, and, for sure the United  
8 States will lose world economic leadership if we do not  
9 pursue this route.

10 I have just one question of staff, I assume. From the  
11 description we had here of the legislation in front of us, I  
12 assume everything else is the same as present law, except  
13 for the Section 135 Private Sector Advisory Committee. Is  
14 that right?

15 Ms. Miller. Correct, Senator.

16 Senator Grassley. So, as long as I note that and am  
17 aware of that, everything else is the same?

18 Ms. Miller. That is correct.

19 Senator Grassley. All right. Thank you.

20 The Chairman. Thank you, Senator Grassley.

21 Ms. Miller. Oh. I am sorry.

22 The Chairman. Ms. Miller.

23 Ms. Miller. The General Counsel of the USTR has  
24 reminded me that we have lengthened the period of  
25 notification to 120 days rather than 90 days, as has existed

1 under the current law.

2 Senator Grassley. All right. Well, that would be  
3 satisfactory with me.

4 The Chairman. Thank you, Mr. Shapiro. We have not had  
5 a chance to welcome you this morning.

6 May I note that Senators Rockefeller and Danforth, both  
7 of whom are present this morning, have asked that a letter  
8 be sent to the President accompanying this measure setting  
9 forth our views on what our negotiating objectives are in  
10 the final stretch. Senator Baucus, who is Chairman of our  
11 subcommittee, indicated as much in some of the specifics you  
12 mentioned. So, we will be drafting a letter. No. Ms.  
13 Miller, you will be drafting a letter.

14 Senator Danforth. It has been drafted.

15 The Chairman. It has been drafted. No detail is too --  
16 Senator Baucus. In fact, here is the letter, Mr.  
17 Chairman.

18 The Chairman. Here is the letter.

19 Ms. Miller. Yes.

20 The Chairman. Here is the letter. It will not be  
21 placed in the record in order that it should appear de novo  
22 in the aftermath of the remarks of Senator Danforth,  
23 followed by those of Senator Rockefeller.

24 Senator Danforth. Mr. Chairman, I have seen a draft of  
25 a letter which I believe and hope you are sending to the

1 U.S. Trade Representative stating the views of the Finance  
2 Committee on negotiating objectives in what remains of the  
3 Uruguay Round.

4 The Chairman. In what remains to the Uruguay Round, if  
5 I may say.

6 Senator Danforth. All right.

7 The Chairman. It is a very considerable document. That  
8 one will be even more so.

9 Senator Danforth. All right. Thank you, Professor.

10 I would like to simply amplify a couple of points that  
11 are made in that letter, and I think it is an important  
12 letter. It is very much within the tradition of this  
13 committee to set out its views on negotiating objectives.  
14 It usually does so in the legislation itself, it is doing so  
15 by letter this time. I do not think there is any particular  
16 difference in whether it is done by letter or whether it is  
17 done within the legislation. But I want to make a couple of  
18 points just really to amplify what is said in the letter.

19 One, has to do with dispute settlement, the need to  
20 improve the mechanism for resolving disputes under trade  
21 agreements. It is wonderful to negotiate agreements, but it  
22 is not so wonderful to negotiate agreements and then not be  
23 able to enforce the agreements that are negotiated because,  
24 if there is no workable enforcement mechanism, the result of  
25 that is the good guys are voluntarily complying with what

1 has been agreed to, the bad guys are not complying and are  
2 dragging their heels, and the enforcement mechanisms do not  
3 work.

4 So that the trade agreement acts as a unilateral action  
5 rather than something that is truly enforceable. That has  
6 been true, for example, with respect to the Oil Seeds case.  
7 There, two different GATT panels ruled, and, still, the  
8 matter more or less proceeded in limbo, and various promises  
9 were made and promises were broken. And it is really  
10 important, if we are going to have a workable, credible  
11 international trading system, for the agreements to be truly  
12 enforceable and to be enforceable in a timely manner. I  
13 really want to simply underscore that as the administration  
14 proceeds with the negotiation of the Uruguay Round.

15 The Chairman. Could I just interrupt to say that the  
16 passage that you are referring to in our draft letter which  
17 was subject to remain open all day for changes, but, then we  
18 want to get it out today, in that connection--we are talking  
19 about the dispute settlement mechanism--the committee  
20 believes that dispute settlement panels hearing challenges  
21 to our antidumping or countervailing duty actions should be  
22 precluded from substituting their own judgment for the  
23 judgment of the U.S. International Trade Commission, the  
24 Department of Commerce, or the U.S. courts. That is what  
25 you are talking about, Senator Danforth. That is the third

1 paragraph on page two.

2 Senator Danforth. That is right. That is right.

3 The Chairman. And that is what you desire.

4 Senator Danforth. Yes. And, by way of elaboration,  
5 generally, what I desire is to work on the whole question of  
6 how to enforce agreements once the agreements have been  
7 made. Then what happens? How do we pursue GATT cases, how  
8 do we bring them to conclusion, and how do we operate after  
9 the GATT panel has met? Because what has happened in the  
10 past is agreements are made, agreements are broken, and then  
11 we backtrack and start, again, negotiating a fall back  
12 position instead of enforcing the rights we originally had.  
13 That is what I am concerned about.

14 The Chairman. Has anybody come up and spoken with us on  
15 sort of a reflective view about this matter? I mean, the  
16 GATT has a particular history. It is singular, and it is  
17 not unpromising in that a full-blown organization, the  
18 International Trade Organization, modeled more or less  
19 exactly on the International Labor Organization, was  
20 negotiated at Dumbarten Oaks, or in some side negotiation.  
21 It was to be headquartered in Havana, and it came to this  
22 committee, and we said no.

23 Then, on an absolutely ad hoc basis, a negotiation that  
24 met in Geneva acquired a little bit of an organization. I  
25 mean, I can recall the general agreement of Tariffs and

1 Trades when it consisted of Eric Windom White, who was a  
2 Treasury official from Britain in the high tradition of the  
3 Treasury. Eric Windom White, and four good-looking French  
4 secretaries. And they had a little villa overlooking  
5 Geneva, and people were always invited for luncheon.

6 And it is out of that, they have now moved down to this  
7 rather heavy 1920s, rather serendipitous, fateful -- they  
8 are now in the building built by the International Labor  
9 Organization in the 1920s. But they never started out with  
10 a structure or design, and so forth. So, I think it is  
11 still a pretty flexible organization. Mr. Shapiro, is that  
12 your view? It need not be. But --

13 Mr. Shapiro. Well, I think that most people who are  
14 involved in the Round feel that if the Round is successful  
15 and international trading rules are extended to areas that  
16 they have not previously been in, along with that you are  
17 going to have to have a more credible and more effective  
18 enforcement mechanism.

19 The Chairman. And you are going to have to begin a  
20 bureaucratic process with your bureaucratic mandate that  
21 outcomes be predictable. You are thinking this is --

22 Senator Danforth. I have never thought it was  
23 particularly bureaucratic. It just seems to me that when an  
24 agreement is violated and when that violation has been  
25 adjudicated in the appropriate panel, then certain results

1 should follow from that adjudication. In other words,  
2 rights are conferred by that adjudication. That should give  
3 way to real action --

4 The Chairman. I withdraw the term.

5 Senator Danforth. -- as opposed to simply renegotiating  
6 the basic deal to some fall back so that nothing is done. I  
7 mean, it is like any other set of rules. If you say, well,  
8 we are going to have rules of, say, an athletic contest.  
9 But, if you break the rules and the referee throws the flag,  
10 having broken the rules, if, instead of stepping off the  
11 penalty the referee then sits down with the party that has  
12 broken the rules and commences a negotiation about how they  
13 can resolve the dispute that has now been entered into, and  
14 nobody really wants to walk off the yardage against the  
15 offending party, so let us simply negotiate where we go from  
16 here. And I think that is basically the situation.

17 I mean, I am concerned about the future of GATT. I am  
18 concerned that what we do when we set minimal standards of  
19 performance in international trade is to create really  
20 unilateral standards. Because the minimal standards, when  
21 we begin enforcing in a kind of a negative or punitive way,  
22 we flinch and we end up having no enforcement and having no  
23 rules.

24 The Chairman. Let me agree with you entirely. Let me  
25 suggest, Mr. Shapiro, that it would be good to have a quiet



1 morning's hearing sometimes where we can do some case  
2 histories.

3 Senator Danforth. Oil seeds.

4 The Chairman. Oil seeds. Let us have a case history on  
5 oil seeds. And when I said bureaucratically, it was not in  
6 a denigrating sense, it was in the sense of administration  
7 where like cases are decided alike. And that is a certain  
8 stage in organization development, and I think we should be  
9 there.

10 Senator Danforth. The second point that I would make,  
11 Mr. Chairman, and I will make it very briefly, has to do  
12 with subsidies and whether we are going to have an  
13 international system which has this so called red light-  
14 green light system where certain subsidies are now  
15 permitted, and other subsidies are not permitted. And I  
16 would caution against that. I think that that is a point  
17 that is made in the letter. It seems to me to be a very,  
18 very bad situation where some subsidies are going to be  
19 allowed and some are apparently not going to be allowed.

20 So, I am happy that that point has been made in the  
21 draft letter, and I hope it is in the final version of the  
22 letter.

23 The Chairman. Thank you very much, Senator Danforth.  
24 Senator Rockefeller.

25 Senator Rockefeller. Mr. Chairman, just a couple of

1 things to back up what the Senator said. It occurred to me  
2 also that we do have the Trade Agreements Compliance Act  
3 which would help a lot. It has been introduced. It is  
4 waiting for a vehicle. If there is a trade vehicle, Senator  
5 Baucus, I would assume that would be one of the things we  
6 would be looking at, which would help.

7 The Chairman. Are you going to hold hearings on this?

8 Senator Baucus. On the Trade Agreement Compliance Act?  
9 I think we should.

10 The Chairman. Yes. Let us do that.

11 Senator Baucus. It gets to the dispute settlement  
12 mechanism for enforcement of trade laws.

13 The Chairman. We are very likely at a moment where you  
14 want to know what you want here, because something is going  
15 to freeze and you are going to be living with it for a long  
16 time. That would be helpful.

17 Senator Rockefeller. I just want to make four quick  
18 points about this. One, I am glad that we are doing this.  
19 Is this not a letter that we can, in fact, sign here? Or is  
20 it not --

21 The Chairman. Would you prefer, as I would be  
22 delighted, that this be a letter signed by every member of  
23 the committee if it is their wish.

24 Senator Danforth. I think you could do it for us.

25 Senator Rockefeller. I think it would be better to have

1 every member of the committee sign it. Because, you know,  
2 there is not one thing in this letter which has not already  
3 been put forward by both Carla Hills and Mickey Cantor.  
4 And, in fact, we have sort of the constitutional duty and  
5 authority to help on this, to express our views.

6 The Chairman. This is our responsibility, trade.

7 Senator Rockefeller. Yes. It is bipartisan.

8 The Chairman. Is that all right? Do people --

9 Senator Wallop. Mr. Chairman, at an appropriate time I  
10 have a reservation to express about the paragraph that has  
11 just been under discussion.

12 Senator Rockefeller. Yes. I think, as much as  
13 possible, as Senators can sign it, it really does help. I  
14 like the fact it is bipartisan. I think we have not had too  
15 much of that recently.

16 The Chairman. Oh. Welcome.

17 Senator Rockefeller. And this really helps on that.  
18 And it does support the administration. I mean, it helps.  
19 It supports what they are doing. It supports what  
20 Ambassador Hills was doing. It is a good thing.

21 Senator Riegle. Would the Senator be kind enough to  
22 yield just for 30 seconds? I have got to run up and open up  
23 a hearing, and I have a cabinet secretary waiting for me  
24 upstairs. I appreciate the courtesy.

25 I am going to ask unanimous consent to insert my

1 statement in the record.

2 The Chairman. Without objection.

3 [The prepared statement of Senator Riegle appears in the  
4 appendix.]

5 Senator Riegle. I want to indicate my support for the  
6 extension of fast track. I think we ought to be adding the  
7 Super 301 provisions to it. I understand there is a desire  
8 not to do that here. I am reluctantly ceding to that, with  
9 the understanding that I want to see us press ahead on  
10 passage of Super 301 just as fast as we can. The  
11 administration has indicated it is supportive.

12 And I want to say to Senator Baucus and to you that,  
13 every day that is lost without that, I think, is costly to  
14 our country. We have had trade deficits in the last two  
15 months in excess of \$10 billion in each month. That is \$20  
16 billion out of the country in 60 days, half of it to Japan,  
17 and I hope we can move on that.

18 I thank my colleagues for their courtesy.

19 The Chairman. We thank you, Senator. Senator  
20 Rockefeller, the floor is all yours.

21 Senator Rockefeller. I am all finished, Mr. Chairman.

22 The Chairman. Oh. Let's see. Senator Wallop.

23 Senator Wallop. Down here where it is still snowing.

24 The Chairman. Welcome.

25 Senator Wallop. Mr. Chairman, I am absolutely in total

1 agreement that there has to be an effective, understood,  
2 efficient, non-negotiable dispute settlement mechanism. In  
3 order to do that, it seems to me that all parties to the  
4 agreement will have to cede some sovereignty.

5 One of the reasons why the trade balances between the  
6 States are not such a problem is because of commerce clause  
7 and other parts of the constitution, and the fact that we  
8 have courts, Federal, State, and others, that can take care  
9 of the kinds of things that States from time to time do to  
10 give themselves an advantage, and the courts invariably  
11 knocked them back. The dispute settlement mechanism is  
12 critical to a successful international trading structure.  
13 But that means that we, as well, have to give up some level  
14 of sovereignty.

15 And that is where the second part of that paragraph  
16 strikes me as inconsistent with the first, so that the  
17 dispute settlement panels hearing challenges to our  
18 antidumping or countervailing duty actions should be  
19 precluded from substituting their own judgment for the  
20 judgment of the U.S. International Trade Commission.  
21 Basically, what that paragraph says is that we want  
22 everybody in the world to obey what is taking place but we  
23 will not if it does not suit us.

24 I, for that reason, am uncomfortable with that paragraph  
25 and could not, I think, sign a letter suggesting that we

1 think all of our trading partners must be obliged to follow  
2 the dispute settlement mechanism. I so strongly believe in  
3 the first part. I mean, I think that is the key, the only  
4 key to making a successful Round.

5 But if we do not, at our convenience, feel compelled to  
6 follow it, then I do not see where we have gained anything.

7 The Chairman. If the Senator would yield. Your point  
8 is that if we make that reservation, shall the French be  
9 free to do the same.

10 Senator Wallop. Exactly. And then we do not have a  
11 dispute settlement mechanism that has any consequence.

12 Senator Rockefeller. Mr. Chairman.

13 The Chairman. Senator Rockefeller.

14 Senator Rockefeller. In that I think it is more  
15 complicated than my friend from Wyoming indicates, I wonder  
16 if Ira Shapiro could comment on that.

17 The Chairman. Mr. Shapiro, would you?

18 Mr. Shapiro. Senator and Mr. Chairman, I do not think  
19 the inconsistency is quite as dramatic as Senator Wallop has  
20 suggested. The first part of the paragraph talks about need  
21 for an effective dispute settlement mechanism. And, where  
22 Senator Danforth was addressing it, he was talking about  
23 when there were trade agreements, what kind of a dispute  
24 mechanism would you have? We have a situation now that the  
25 GATT basically operates by consensus, so that a party that

1 does not like the result of a decision can simply not agree  
2 to it. And it produces the situation Senator Danforth has  
3 suggested: an adjudication followed by nothing.

4 The second part of this, though, goes to the questions  
5 of standard of review, and really precisely how much each  
6 country would agree to cede by way of authority. And it is  
7 a difficult question. But what we are saying in this letter  
8 and what the U.S. position has been is that a certain amount  
9 of deference to national laws and the way they are  
10 administered is important in this international system.

11 Now, obviously, other countries are going to say the  
12 same thing. We are not going to give deference to our law  
13 and other countries not have deference to theirs. But I do  
14 not think they are necessarily inconsistent.

15 Senator Wallop. Well, what worries me, Mr. Shapiro, is  
16 that this is an excuse to draft the dispute settlement  
17 mechanism that isn't really one, that leaves us more or less  
18 where we are now in the circumstance which you have  
19 described and which has frustrated us all, that it is sort  
20 of a voluntary compliance that depends upon the goodwill of  
21 all parties concerned.

22 If you are going to have a serious dispute settlement  
23 mechanism, then it must have teeth. And the parties must  
24 agree that the teeth can bite and that it is not a matter of  
25 renegotiating every single thing that comes in front of it.

1 As Senator Danforth said, when you have transgressed the  
2 rules of the game and the umpire throws the flag, then  
3 everybody knows what the flag has been thrown for and the  
4 rules apply. If that is the case and the second paragraph  
5 is in conflict. If it is not the case, then the first part  
6 of the paragraph will not be achieved.

7 Senator Danforth. I really do not think it is in  
8 conflict. I think that the practical problem that we have  
9 now is that the system does not work.

10 Senator Wallop. Oh. I agree. And that, I assumed, was  
11 what you were saying about the first part, that it does not  
12 work. And if it is going to work we are going to have to  
13 have an effective dispute settlement mechanism.

14 Senator Danforth. Yes. But I mean, in other words, the  
15 business now, like it or not, of enforcing international  
16 trade agreements, forcing rules against unfair trade  
17 practices is partly multi-national and partly unique to each  
18 country. I mean, Section 301 is a provision that is in our  
19 own trade laws. I think that the problem is that it is not  
20 that there are various procedures in our own laws that are  
21 too strict on enforcement. The problem is that when you  
22 take a matter to the GATT, the result of that is just very  
23 doubtful that anything will come of it.

24 Senator Wallop. I understand. That is my exact point.  
25 Presumably, that is what you are asking to have changed in



1 the first part of the paragraph, and which I thoroughly,  
2 totally support in every possible way. But if you are going  
3 to achieve that, you have to be willing to cede some  
4 sovereignty and expect others to cede some, too, and to get  
5 it different than it is now. As you, and Mr. Shapiro, and  
6 others have described it, as a goal, means that we want to  
7 have something different. If we are going to end up GATT  
8 the same way we are now, the complaint that you have now,  
9 and settlements resolved as they are now, then that is one  
10 thing.

11 And I, therefore, share your frustration and feel that  
12 the second part is necessary. But, if you are really after  
13 a dispute settlement mechanism that has real teeth and real  
14 umpires that throw real flags over rules that are really  
15 known, then the second part of it is, to me, in conflict.  
16 Therefore, I will not, Mr. Chairman, be able to sign a  
17 letter that contains those things.

18 The Chairman. But how should we go forward with this?  
19 We have a difference, and it is an important difference.  
20 The Executive needs to know what we think. Can we find a  
21 moment to --

22 Senator Rockefeller. Mr. Chairman, this is not law we  
23 are signing. This is not a bottom line, this has no force.  
24 This is something we did in 1988.

25 The Chairman. Let us put some time aside for the

1 subject. Do you not think, Senator Danforth?

2 Senator Danforth. Sure.

3 The Chairman. I think Senator Conrad is next. And, may  
4 I say, we have a rolling quorum and the committee will  
5 proceed.

6 Thank you, Senator Wallop. I think those are very  
7 instructive things.

8 Senator Conrad. Mr. Chairman, first, I apologize for  
9 coming late.

10 The Chairman. You are not late, sir. You are welcome.

11 Senator Conrad. I had multiple things going on this  
12 morning. Might I inquire, is the subject under discussion  
13 solely the text of the letter or is it appropriate to  
14 discuss extension of fast track at this point?

15 The Chairman. The legislation extends fast track. Of  
16 course.

17 Senator Conrad. I just did not want to be out of phase.  
18 If the concentration was on the text of the letter, I did  
19 not want to be out of phase.

20 The Chairman. Senator Conrad, this is the United States  
21 Senate. We have no rules.

22 (Laughter)

23 Senator Conrad. Well, once in awhile we voluntarily  
24 enter into restrictions.

25 The Chairman. Voluntarily.

1           Senator Conrad. And I did not want to step over the  
2 line with respect to that.

3           Let me say that, with respect to extension of fast track  
4 authority, I may sound a discordant note here. I will not  
5 support extension of fast track authority at this time, and  
6 I will not do so for two reasons.

7           First of all, I think we are ceding too much of our  
8 constitutional authority to the Executive Branch, and I  
9 think the result of that ceding of authority with respect to  
10 my constituency has been extremely adverse in previous  
11 agreements.

12           I am profoundly disturbed by the results of the Canadian  
13 Free Trade Agreement; I am very concerned about the  
14 direction of NAFTA; and I am very concerned about the  
15 direction of GATT, specifically with respect to agriculture.  
16 Let me just say that, on the Canadian Free Trade Agreement,  
17 my State has learned a bitter lesson. We were told that  
18 this would be free trade; whoever is the best competitor  
19 wins the race. That is a test the people in my State are  
20 ready to meet. That is not what has happened.

21           Our neighbors to the north have gone from zero percent  
22 of the durham market in this country to 25 percent of the  
23 durham market. Not because they are better competitors, but  
24 because the so called Free Trade Agreement was not a free  
25 trade agreement. It was a negotiated trade agreement and

1 our side, plainly, lost the negotiation with respect to the  
2 agricultural sectors that are most important to my State.

3 We have seen them take over not only the durham market,  
4 we see them making huge incursions into the spring wheat  
5 market, and now the barley market. And, again, not because  
6 of our ability to compete, but because of flaws in that  
7 agreement, flaws that were not revealed to us at the time of  
8 the agreement because they were secret agreements,  
9 agreements that were not on the record. In fact, it  
10 contradicted plain language of that agreement. Let me just  
11 give one example.

12 In a question of whether Canada is dumping at below cost  
13 into our market, normally the test would be looking at the  
14 acquisition price for that grain in Canada, comparing it to  
15 what they sell for, and that, in fact, is what the agreement  
16 says. The agreement says we will look at their full  
17 acquisition price. That seems plain enough.

18 We just had a binational panel ruling that says, well,  
19 that language does not mean what it says. Because there is  
20 a side agreement--a secret side agreement--entered into by  
21 our negotiator, Clayton Yeutter, which says, well, we do not  
22 really mean that. We will not count the final payment the  
23 Canadian Government makes to their farmers. In addition, we  
24 do not count the transportation subsidy on all grain that  
25 moves east in that country. That does not count. Fifty

1 cents a bushel on a product that is worth \$3.50. We do not  
2 count the final payment that is made by the Canadian  
3 Government to Canadian farmers. And, so, we are subjected  
4 to what has been devastating to us.

5 Mr. Chairman, I could go on and on with the kinds of  
6 experiences we have had as a result of trade agreements that  
7 were not what they were advertised to be, that contradict  
8 the plain language of the agreement.

9 And, so, for those reasons, I will not vote to extend  
10 fast track authority. I think it is a mistake. I think it  
11 is especially a mistake right now because we are seeing  
12 already the Europeans line up and say, access? Oh. We are  
13 going to change the rules on access. We have seen it in  
14 bananas, and we are going to see it in other commodities as  
15 well.

16 And, right now on the table, what we have is an  
17 agreement that says to the American farmer, you are going to  
18 get \$4.00 for wheat, your European counterpart is going to  
19 get \$8.00; in soybeans they are going to get \$11, we are  
20 going to get \$5; on corn, they are going to get \$4 and we  
21 are going to get \$2.

22 And then we are told, well, this is free trade. It is  
23 not my idea of free trade. I think we have made disastrous  
24 agreements, at least with respect to the agricultural  
25 sector. They are not fair. They are not free trade, they

1 are negotiated trade. And, unfortunately, our negotiators  
2 have lost the negotiation.

3 So, Mr. Chairman, I have got a statement to submit for  
4 the record with some greater detail --

5 The Chairman. Without objection, we will place it in  
6 the record.

7 Senator Conrad. -- with the hope that someone who is  
8 negotiating on behalf of this country is listening and that  
9 there will be redress for some of these grievances--past  
10 grievances, future grievances--before they become a real  
11 fire storm.

12 The Chairman. Thank you.

13 [The prepared statement of Senator Conrad appears in the  
14 appendix.]

15 Senator Conrad. I thank the Chairman.

16 The Chairman. And I would like to ask Mr. Shapiro if we  
17 could not have a report on the side agreement Mr. Yeutter  
18 evidently negotiated that Senator Conrad spoke about. If  
19 that was kept from this committee, we need to know it. We  
20 will hear from you in due time. Senator Bradley.

21 Senator Bradley. Thank you very much, Mr. Chairman. I  
22 want to stress my strong support for the committee action  
23 today of passing a clean fast track extension. I think it  
24 is enormously important.

25 As you know, the President is headed to Tokyo in a

1 matter of a couple of weeks for a meeting. Up to now, the  
2 lack of authority has not proven to be a negotiating  
3 obstacle, but, in my own judgment, it will shortly become a  
4 serious obstacle. Therefore, I think what you are doing and  
5 the administration's perception that they need a clean  
6 extension, I think, is enormously significant and important.

7 Extending it to December 15th, in my view, gives them  
8 the time they need to conclude this deal. We will either be  
9 able to do it by then, or we will not, and people should not  
10 be under any kind of expectation that the GATT Round will  
11 keep going on, and on, and on. This is an extension of time  
12 for a short period. It is reasonable to assume that you can  
13 conclude the negotiations in that period, and I think it is  
14 enormously important that it be a clean bill, which it is.  
15 I want to salute you for seeing to it that it is a clean  
16 bill.

17 The Chairman. Thank you very much. Senator  
18 Rockefeller.

19 Senator Rockefeller. Mr. Chairman, I simply echo  
20 everything that Senator Bradley said.

21 The Chairman. Thank you. Members of the committee, a  
22 rolling quorum has been established. Would someone wish to  
23 move the adoption of the measure?

24 Senator Bradley. I move the adoption.

25 The Chairman. And I have taken the wishes of the

1 members. Let me help, here. I believe the vote is 19-1,  
2 but I have to ask a moment. The measure is adopted. If the  
3 committee would allow me a moment to check the proxies of  
4 the eight Senators who have not been able to come. I  
5 believe the vote is 19. I thank you all very much. We will  
6 stay in session until we get this proxy. Thank you all very  
7 much.

8 Ms. Miller. Mr. Chairman, you also may want to approve  
9 affirmatively the draft letter.

10 The Chairman. Yes. The measure is affirmed. Senator  
11 Wallop is not of the view that he could sign it, but I would  
12 think he would want to be associated with it. So, perhaps  
13 if the Chairman just signed and we would not have a missing  
14 esteemed member of the body. Would that be all right?

15 Senator Wallop. Mr. Chairman, I thank you. I mean, I  
16 agree wholeheartedly with what Senator Bradley said. I  
17 agree with the general thrust of the letter. It just seems  
18 to me that we are pulling in two directions.

19 The Chairman. And let us pursue that. Let us find a  
20 quiet moment in July to talk about it. Let the juris  
21 prudential aspect of Senator Danforth.

22 Senator Wallop. If he cannot persuade me of the law, he  
23 can preach to me.

24 The Chairman. That is right. It is one thing or the  
25 other.



1           Senator Danforth. I am always ready to do it. Mr.  
2 Chairman, we have all the proxies of the absent members  
3 here.

4           The Chairman. Yes, sir. As I understand it --

5           Senator Danforth. All voting in favor of the measure.

6           The Chairman. Yes, sir. I announce the vote as  
7 follows: 18-1; Senator Daschle is not recorded. All  
8 Republican members are in favor.

9           And, with that, thank you very much, Ms. Miller. Thank  
10 you, Mr. Shapiro.

11          Mr. Shapiro. Thank you, Mr. Chairman.

12          The Chairman. Ms. Miller or Mr. Shapiro, would you  
13 identify Ambassador Kaplan in Tokyo that this has been done?

14          Mr. Shapiro. Yes.

15          The Chairman. We have 18 votes for and two against the  
16 bill, with Senator Conrad voting nay and Senator Daschle  
17 voting nay, by proxy.

18          [Whereupon, at 10:21 a.m. the meeting was concluded.]

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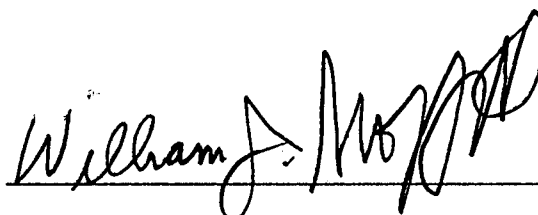
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## C E R T I F I C A T E

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2  
3 This is to certify that the foregoing proceedings of a  
4 Meeting of the Executive Committee of the Committee on  
5 Finance, United States Senate, held on June 23, 1993, were  
6 transcribed as herein appears and that this is the original  
7 transcript thereof.  
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WILLIAM J. MOFFITT

Official Court Reporter

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17 My Commission Expires April 14, 1994  
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**UNITED STATES SENATE  
COMMITTEE ON FINANCE**

**EXECUTIVE SESSION**

Wednesday, June 23, 1993 -- 9:30 a.m.

Room SD-215 Dirksen Senate Office Building

**A G E N D A**

To consider S. 1003, a bill to provide authority for the President to enter into trade agreements to conclude the Uruguay Round of multilateral trade negotiations under the auspices of the General Agreement on Tariffs and Trade, to extend tariff proclamation authority to carry out such agreements, and to apply Congressional "fast track" procedures to a bill implementing such agreements. [See Staff Document]

**RENEWAL OF FAST TRACK AUTHORITY (S. 1003)****(Prepared by the Staff of the Senate Committee on Finance)****Wednesday, June 23, 1993****A. Background**

The Congress first adopted expedited legislative procedures for trade agreements (known as the "fast track") in the Trade Act of 1974 (1974 Trade Act). The fast track has been renewed twice. It was extended for eight years in the Trade Agreements Act of 1979 and, after a lapse of eight months, was reauthorized in the Omnibus Trade and Competitiveness Act of 1988 (1988 Trade Act). The 1988 Trade Act provided fast track procedures for trade agreements signed by June 1, 1993, subject to a Presidential request in 1991.

Under the 1988 Trade Act, the President was authorized to enter into trade agreements to reduce or eliminate tariff and non-tariff barriers and other trade-distorting measures. The 1988 Trade Act also granted the President the authority to proclaim, within prescribed limits, modifications to U.S. tariffs that are negotiated as part of a multilateral trade agreement. The President was required to notify the Congress at least 90 days in advance of his intent to enter into a trade agreement in order for the agreement to be considered using fast track procedures. The last date for such advance notification under the 1988 Trade Act was March 2, 1993, and the authority itself expired May 31, 1993.

**B. Fast Track Renewal (S. 1003)**

President Clinton has proposed to extend the fast track approval procedures to trade agreements that conclude the Uruguay Round of Multilateral Trade Negotiations, setting a December 15, 1993 deadline for the completion of the negotiations. In the Senate, legislation to implement the President's proposal was introduced on May 20, 1993 by Chairman Moynihan and cosponsored by Senators Packwood, Rockefeller, and Chafee (S. 1003). The House Ways and Means Committee approved identical legislation (H.R. 1876) on June 9, 1993.

S. 1003 would renew negotiating and proclamation authority and provide for the application of fast track approval procedures for Uruguay Round agreements. The authority would expire April 16, 1994, and would require that the President give the Congress 120 days' advance notification (or by December 15, 1993) of his intent to enter into any such agreement. The bill would also give the private sector advisory committees established under section 135 of the 1974 Trade Act an additional 30 days in which to submit their reports to the Congress; current law requires that they submit the reports at the same time as the President notifies Congress of his intent to enter into a trade agreement.

June 23, 1993

The Honorable Michael Kantor  
United States Trade Representative  
Room 209, Winder Building  
600 Seventeenth Street, N.W.  
Washington, D.C. 20506

Dear Mr. Ambassador:

The Finance Committee has closely monitored the progress of the Uruguay Round negotiations since they were launched at Punta del Este in September 1986. As you know, the Congress set forth the principal negotiating objectives for the Round in the Omnibus Trade and Competitiveness Act of 1988. These have been, and will continue to be, the overall benchmarks against which we will measure the outcome of these negotiations.

Since then, however, the negotiations have evolved and the issues have become more clearly defined. In particular, in December 1991, GATT Director General Arthur Dunkel tabled his "Draft Final Act," the document which has since become the basis for much of the negotiations.

It is therefore appropriate, as the Congress considers the President's request to renew negotiating authority and "fast track" procedures for the Uruguay Round, to consider once again our goals and objectives in light of the specific issues raised, or left unaddressed, in the Draft Final Act. We set forth below our views on the goals we believe the United States should pursue with respect to seven key areas of the negotiations. It is the Committee's intention to review any final Uruguay Round agreement against these objectives, as well as the objectives set forth in the 1988 Trade Act.

First, as negotiations on market access move forward in anticipation of the July meeting of the leaders of the Group of Seven countries, the Committee reaffirms its longstanding belief that the Uruguay Round must result in more open, equitable, and reciprocal access for U.S. exporters of goods and services. With respect to manufactured products, the United States should seek an agreement that will substantially reduce tariff and non-tariff barriers to U.S. exports and eliminate tariffs where our private sector favors such an action and significant trading partners concur.

In the negotiations on services trade, the United States should seek substantial market access commitments that provide for national treatment, right of establishment and equivalent competitive opportunities for our firms; countries that fail to make such commitments should be denied the benefits of the services agreement. In addition to a substantial reduction in existing trade barriers, the Round should also establish rules to prevent countries from erecting new ones.

The Honorable Michael Kantor  
June 23, 1993  
Page Two

Market access is also an important objective in the negotiations on agricultural trade, where we should seek to obtain meaningful commitments that will expand export opportunities for U.S. producers. In addition, we should aim for significant reductions in export subsidies and in farm support programs that distort world market prices by promoting overproduction and dumping of excess production on the world market. We should also ensure that unjustified sanitary and phytosanitary measures are disciplined, while preserving our right to maintain legitimate measures to protect health, safety, and the environment.

The government procurement negotiations also provide an opportunity for greater market access for U.S. firms. In addition to seeking to reduce barriers in foreign markets, the United States should work to expand the coverage of the Government Procurement Code and improve the fairness and transparency of administrative procedures.

The Committee continues to believe that the United States should seek a stronger GATT dispute settlement mechanism that will ensure, within set timeframes, the prompt and effective enforcement of our rights. At the same time, we must retain the ability to use our trade laws to remedy trade agreement violations and address the unfair trading practices of our competitors. In that connection, the Committee believes that dispute settlement panels hearing challenges to our antidumping or countervailing duty actions should be precluded from substituting their own judgment for the judgment of the U.S. International Trade Commission, the Department of Commerce or U.S. courts.

The Committee strongly believes that our antidumping and countervailing duty laws must be preserved as effective tools for fighting unfair dumping and government subsidies. We are concerned, in particular, with the provisions of the Draft Final Act on standing, cumulation, cost and profit methodologies, de minimis exceptions, non-actionable subsidies, and the termination of antidumping and countervailing duty orders. We should seek stronger disciplines against export and domestic subsidies (including equity infusions, and natural resource and regional subsidies), as well as effective measures to prevent circumvention of antidumping and countervailing duty orders and diversionary dumping. At the same time, we should work toward greater transparency in the antidumping and countervailing duty actions taken by our trading partners, as well as a clarification of substantive rules and stronger procedural standards to prevent the misuse of these rules against U.S. exporters.

The Honorable Michael Kantor  
June 23, 1993  
Page Three

In the intellectual property negotiations, we believe that our overarching goal should be an agreement that provides adequate protection and effective enforcement of all forms of intellectual property rights. We believe, however, that the Draft Final Act is deficient in several respects. The transition periods, particularly as they apply to developing countries, should be shortened. The agreement should provide for pipeline patent protection for products subject to pre-market regulatory review. The rules regarding the use of compulsory licenses should be strengthened. And the agreement should fully recognize contractual arrangements and transfers and provide for comprehensive national treatment for U.S. owners of intellectual property rights.

Finally, in the textile and apparel negotiations, we believe that the United States should ensure that all countries provide equitable access to their domestic markets and that measures are put in place to prevent such trade-distorting practices as transshipment, false declarations, smuggling and other forms of trade rule circumvention. In addition, we believe strongly that any country that does not adhere to the overall Uruguay Round agreement should not benefit from the phase-out of the Multifiber Arrangement (MFA). We also urge you to take into consideration, in any negotiations on textile and apparel tariff reductions, the significant trade-liberalizing effect of the phase-out of the MFA, as well as the impact on employment.

We urge you to keep these objectives, along with those in the 1988 Trade Act, in mind as you work to conclude the Uruguay Round by the end of this year. We look forward to working with you as these negotiations move forward, and stand ready to provide whatever assistance or advice you may find useful.

Sincerely,

STATEMENT BY SENATOR DOLE

*Baldole*

MR. CHAIRMAN, THE CURRENT ROUND OF TRADE NEGOTIATIONS IS IMPORTANT TO AMERICAN MANUFACTURING, TO OUR SERVICES INDUSTRY AND TO AMERICAN AGRICULTURE AND I SUPPORT THE PRESIDENT'S REQUEST FOR RENEWAL OF NEGOTIATING AUTHORITY.

I ALSO SUPPORT THE PRESIDENT'S REQUEST FOR A CLEAN BILL WITH NO AMENDMENTS. WE ALL HAVE AMENDMENTS THAT COULD BE OFFERED ON A BILL LIKE THIS BUT THAT WOULD DELAY -- PERHAPS KILL -- THIS BILL WHICH, IN MY VIEW, NEEDS TO BE PASSED AS SOON AS POSSIBLE.

SENATORS DANFORTH AND ROCKEFELLER HAVE DRAFTED AN EXCELLENT LETTER ON NEGOTIATING OBJECTIVES FOR THE URUGUAY ROUND WHICH IS TO BE SENT AS A COMMITTEE LETTER TO AMBASSADOR KANTOR.

I KNOW THE LETTER HAS UNDERGONE SOME REFINEMENT SINCE IT WAS FIRST DRAFTED BUT I DO WANT TO POINT OUT THE SECTION ON AGRICULTURE WHICH IS IMPORTANT TO AMERICAN FARMERS WHO HAVE BEEN COUNTING ON A GOOD AGREEMENT IN THE URUGUAY ROUND TO DISMANTLE THOSE UNFAIR TRADE PRACTICES WHICH DENY US A CHANCE TO COMPETE FAIRLY.

I AM CONCERNED ABOUT THE FATE OF AGRICULTURE IN THE ROUND BECAUSE OF AN ARTICLE WRITTEN BY MR. JEFFREY GARTEN WHO IS PRESIDENT CLINTON'S NOMINEE TO BE UNDER SECRETARY OF COMMERCE FOR



INTERNATIONAL TRADE -- IN EFFECT, THE TOP TRADE OFFICIAL IN THE COMMERCE DEPARTMENT.

MR. GARTEN, IN AN ARTICLE IN THE WINTER ISSUE OF FOREIGN AFFAIRS MAGAZINE, SUGGESTS THAT PRESIDENT CLINTON CONSIDER WRITING OFF AMERICAN AGRICULTURE'S INTERESTS IN THE TRADE NEGOTIATIONS IN ORDER TO GET A QUICK AGREEMENT.

HE WROTE THAT IN THE EVENT THE TRADE IMPASSE IN THE URUGUAY ROUND IS NOT BROKEN BY INAUGURATION DAY, PRESIDENT CLINTON "SHOULD CUT A DEAL ON AGRICULTURE WITH THE EUROPEAN COMMUNITY, HOWEVER IMPERFECT, AND BRING THE NEGOTIATIONS TO AN END."

"IN ADDITION," MR. GARTEN WROTE, "IF THERE IS A GOOD TIME FOR CLINTON TO FIGHT THE FARM LOBBY, IT IS AT THE BEGINNING OF HIS TERM."

MR. CHAIRMAN, OUR PREVIOUS U.S. TRADE REPRESENTATIVE, CARLA HILLS, HAD THE CHANCE TO MAKE A DEAL AT THE EXPENSE OF AMERICAN AGRICULTURE -- AND WAS PROBABLY PRESSED TO DO SO FROM A NUMBER OF QUARTERS -- BUT STUCK TO HER PROMISES AND KEPT AGRICULTURE ON THE NEGOTIATING TABLE AS A MAJOR ISSUE IN THE TALKS.

IF MR. GARTEN'S ADVICE IS TO PUT AGRICULTURE ASIDE -- OR WORSE YET, TO TRADE IT OFF FOR EC AND JAPANESE DEMANDS -- THEN I WANT TO ASK PRESIDENT CLINTON TO CATEGORICALLY REJECT THAT ADVICE AS SOON AS POSSIBLE. THE ADMINISTRATION'S FIGHT IS WITH THE EC

AND JAPAN AND CANADA ON TRADE ISSUES, NOT WITH THE AMERICAN FARMER.

AT ANY RATE, I UNDERSTAND MR. GARTEN'S NOMINATION HEARING HAS NOT YET BEEN SCHEDULED SO WE WILL HAVE AN OPPORTUNITY TO HEAR HIM EXPAND ON HIS VIEWS AND FIND OUT WHAT ADVICE HE WILL BE GIVING THE PRESIDENT AND THE U.S. TRADE REPRESENTATIVE.

THANK YOU, MR. CHAIRMAN.

OPENING STATEMENT OF  
SEN. MAX BAUCUS  
JUNE 23, 1993

Thank you, Mr. Chairman.

Today we will consider legislation to afford President Clinton the negotiating authority he needs to successfully conclude the Uruguay Round negotiations by the end of 1993.

That's right, by the end of 1993. I know better than to say "by the end of the year." Because the Uruguay Round has dragged past "the end of the year" for three years now. It's time we finally finished it. If we don't get it THIS year, I have my doubts we'll ever get there.

But it looks like we have a real chance this time. The market access talks between the developing countries are moving forward, and the climate seems ripe for a market access deal by the Group of Seven meeting in July. If we can reach that initial deal in July--a deal that includes solid, zero-for-zero tariff cuts in key areas and new market-opening commitments--I think 1993 might indeed be THE year.

If done right, the Uruguay Round is as good an opportunity as we'll get to promote economic growth around the globe. According to one study, the Uruguay Round could increase the gross domestic product around the world by as much as \$740 billion a year. For the U.S. alone, that means gains of \$65 billion a year over the next ten years.

But as I always say, no agreement is better than a bad agreement. And in order to get a good agreement, we need to make some changes to the Dunkel draft. Changes like better protection for patents in the pipeline. Shorter intellectual property transitions for developing nations. And the right to maintain laws that protect the health of our people and our environment. Because if the next round of GATT negotiations is to be a "Green Round," we'd best lay some of that groundwork now.

And lastly, we need assurances that an Uruguay Round agreement will NOT weaken our trade laws. The Uruguay Round holds many benefits, but it will not solve all our problems. We continue to need Super 301 on the books to set deadlines and force markets open.

Mr. Chairman, I plan to <sup>join you in sending a</sup> ~~sign your~~ letter detailing negotiating objectives for the Uruguay Round. And I commend your leadership, as well as the work of Sen. Danforth and Sen. Rockefeller, in drafting this letter. I hope our trading partners will read it carefully.

Thank you, Mr. Chairman.

STATEMENT OF  
SENATOR DONALD W. RIEGLE  
SENATE FINANCE HEARING ON EXTENDING FAST TRACK  
June 23, 1993

This morning we will mark-up legislation to extend fast track authority for the Uruguay Round negotiations on the General Agreement on Tariffs and Trade. The Administration has requested extending fast track for nine months in order to conclude the Uruguay Round negotiations. As I have stated on many occasions, I support the extension of fast track for the Uruguay Round.

I have long been supportive of the need to open markets to U.S. exports and combat unfair trade practices around the world. Opening markets, reducing tariffs and non-tariff barriers, and ensuring that all our trading partners play by the same trade rules are essential to America's economic interests. I support a GATT process which accomplishes these goals.

However, as I have also stated before, the multilateral GATT negotiations are merely one avenue for opening foreign markets. A second, and I believe complementary, vehicle for opening markets is the Super-301 provisions. Extending and strengthening the Super-301 provisions would accomplish a number of key objectives. Super-301 provides the Administration with the ability to address unfair trading practices immediately, without waiting for the conclusion of the Uruguay Round negotiations. It also gives the Administration the ability to deal with closed

markets and unfair trade practices of our trade partners who are not GATT members and not participating in the Uruguay Round negotiations. Finally, it gives the Administration additional leverage in the final stages of the Uruguay Round. As such, I believe Congress should include the Super-301 provisions in the legislation extending fast track.

Nevertheless, at this time I will not offer my Super-301 legislation as an amendment to this bill. It is clear to me that the votes in support of including Super-301 with the fast track legislation do not exist in this Committee.

However, no one should doubt my commitment to seeing that Super-301 be reauthorized as soon as possible. I remain strongly committed to passage of Super-301 legislation. And the sooner Congress passes Super-301 the better.

The U.S. needs to have strong trade tools available to it to effectively deal with unfair trade practices and open markets around the world. In the past, Super-301 has been successful in opening markets around the world. The use of Super-301 was instrumental in opening markets to U.S. supercomputers, agriculture, satellites and other products in Japan, Korea, Brazil and other countries.

Passage of Super-301 legislation will strengthen the U.S.'s negotiating position in both our bilateral and multilateral negotiations. The Administration has indicated its support for a strong Super-301 on many



occasions. I look forward to working with the Administration and the Chairman to reauthorize this important provision as quickly as possible.

*Dave Durenberger*

SENATOR DAVE DURENBERGER  
FINANCE COMMITTEE MARK-UP ON  
EXTENSION OF FAST TRACK FOR THE URUGUAY ROUND OF GATT  
JUNE 22, 1993

Mr. Chairman, the United States -- indeed the world -- needs the GATT to succeed. Extension of fast track is essential to this success.

I support opening world trade markets because I believe that free trade will enhance the economy and lives of the people of Minnesota and the United States.

With 17 percent of Minnesota's manufacturing jobs linked to exports, Minnesota ranks ninth among states in manufacturing employment linked to exports. Export trade is worth more than \$8 billion to my state's economy -- more than 18 percent of Minnesota's production. In addition, import trade plays a vital role in Minnesota's economy. In 1990, import and export activities just in the Port of Duluth-Superior supported nearly 3,000 Minnesota jobs.

The only way for the Uruguay Round to be completed by the end of the year is if the United States pushes the other industrial trading partners to the table. Without fast track, the Clinton Administration will not be able to do this. In order to show our trading partners that the United States is still serious about negotiating a free trade agreement, I think that the Congress needs to approve fast track before Clinton goes to Japan for the G-7 Meeting next month.

*President*

Herb Cant

STATEMENT ON THE URUGUAY ROUND FAST TRACK EXTENSION

Mr. Chairman, I will oppose the fast-track extension for the Uruguay Round of the GATT. I will do so for two reasons: because I believe the grant of fast-track authority to the Executive cedes too much of Congress's Constitutional authority to regulate international commerce; and because I am profoundly disturbed both by the results of previous agreements concluded under the fast track and by the direction of the current negotiations on agriculture.

As the Chairman well knows, Article I of the Constitution states that the Congress shall have the power "to regulate commerce with foreign nations." The fast-track procedures that this legislation proposes to extend abdicate, to a great degree, this responsibility. Although consultation is required under the fast-track, this consultation can, in practice, be so limited that Congress has virtually no say in the development of trade agreements. Moreover, the consultation that is supposed to occur after the negotiations are completed has failed to inform the Congress of the contents and interpretation of trade agreements before the up-or-down vote on implementation required under the fast track.

For example, in the U.S. Canada Free Trade Agreement (CFTA), I found out only this spring that then-Ambassador Clayton Yeutter had made a secret agreement with the Canadians that undercut the plain language of the agreement governing trade in grains. This

secret agreement has given Canadian producers an unfair advantage by allowing them to undercut North Dakota farmers and other U.S. producers. More recently, the Bush Administration demonstrated its contempt for the required consultation period between notification of the Administration's intent to sign a trade agreement and the actual signing of an agreement by engaging in only the most perfunctory notification of Congress regarding the NAFTA. When Senators attempted to express concerns with various provisions, no one responded.

Mr. Chairman, given this history, I do not think the consultation required under the fast-track procedure is sufficient for the Congress to exercise its responsibility to regulate foreign commerce. In my view, the Congress should have the opportunity to consider the various parts of a trade agreement and propose changes and clarifications where necessary in the same way that the Senate can amend a multi- or bi-lateral arms control treaty or tax treaty.

This is particularly true as trade agreements encroach more and more on national laws that were enacted without any intention of affecting international trade. Limiting the Congress to an up-or-down vote on a trade agreement implementing bill that makes significant changes in non-trade law creates a dangerous vehicle that could be used by the Executive branch to gain the enactment of changes in our domestic laws that could not pass the Congress as free-standing measures.

These process concerns are magnified by the substantive problems the CFTA, NAFTA and Uruguay Round create for farmers in my state and in many other parts of the country. As my colleagues know, I have found the U.S. Canada Free Trade Agreement to have serious shortcomings with respect to agriculture. When the agreement was being negotiated, I expressed my concerns to the negotiators, but they were not fixed. When the implementing bill came to the Senate, I pointed out the flaws to my colleagues and attempted to address them in the implementing legislation. Yet because the fast track procedures prevented me from offering amendments that would affect the agreement itself, I was unable to repair the flaws. The result, as I predicted, has been a flood of durum and spring wheat into U.S. markets. Farmers in my state have lost hundreds of millions of dollars in income; and without changes to the basic agreement no end is in sight.

Similarly, my efforts to express concerns about the direction of the NAFTA were rebuffed by the Bush Administration. The NAFTA negotiations were not used as a forum to repair the mistakes of the CFTA. Instead, the mistakes were compounded by allowing the Canadians to use Western Grain Transportation Act subsidies -- prohibited in the CFTA for shipments of grain into the U.S. -- for the shipment of grain to Mexico in competition with U.S. exports. On sugar, the NAFTA text negotiated by the Bush Administration contains a loophole that may allow the Mexicans to ship unlimited amounts of sugar to the U.S. not by increasing domestic production but merely by substituting high fructose corn

sweetener for sugar in their beverage industry. It will limit exports of dry edible beans to less than current levels. And in many other areas affecting agricultural trade I see other shortcomings that may be exploited by the Mexicans to the disadvantage of U.S. producers.

In the Uruguay Round, I see a pattern repeating itself. When the Round began, the U.S. negotiating position on agriculture was clear: we would accept nothing less than complete elimination of trade-distorting domestic supports and export subsidies. But at Blair House we settled for a deal that will lock in the European advantage on subsidies by agreeing to a compromise that calls for only 20% reductions in the volume of subsidized exports and 21% reductions in domestic supports. That's not free trade. It's not fair trade. It's negotiated trade and the previous Administration lost the negotiations.

Now I am afraid that the pattern is repeating itself on agriculture market access. The Europeans are digging in their heels on an unacceptable market access offer. And, while the U.S. position currently is that we will not accept this offer, I am afraid that the final result will once again be a compromise in which the United States gets 20% of its original negotiating offer and Europe ends up with 80% of what it wants. Just as Ross Perot predicts a "giant sucking sound" of jobs heading to Mexico if the NAFTA is approved, I fear a giant sucking sound of U.S. farm jobs disappearing into thin air if significant improvements

are not made in the current Uruguay Round deal with respect to agriculture.

Consequently, I cannot support an extension of the fast track at this time. In fact, I think the timing of this extension is particularly bad. Instead of demanding that our trading partners demonstrate their commitment to the Round by making concessions before we approve fast track, approving fast track now signals that significant further concessions from them may not be necessary. This is especially true since the Administration has taken the position that it does not want any amendments to the bill. If this view prevails, it would preclude strengthening our negotiators' hands by attaching negotiating objective language to the resolution in partial fulfillment of our constitutional responsibility; it would preclude strengthening our negotiators' hands by attaching a "sharper, stronger" Super 301 renewal; and it would preclude addressing some of the concerns I expressed above with regard to the fast track procedure.

Because of the concerns I have cited, and because I think this bill could be strengthened, I have prepared a number of amendments that would somewhat narrow this grant of authority to the Executive. I do not intend to offer these amendments in the committee this morning. But since I am prepared to offer them on the floor, I wish to bring them to my colleagues' attention.

The first amendment I have prepared would require that all verbal and written commitments made in connection with a trade agreement be submitted to the Congress at the time the legislation to implement the agreement is submitted. This will ensure that the Congress is fully informed of any undertaking that might affect the substance, application, or interpretation of the plain language of an agreement and allow the Congress to make a fully informed judgement whether the agreement will benefit the United States.

The second amendment would strengthen the consultation requirement in the current fast-track law. It would turn what is now a one-way notification requirement into a true two-way consultation by requiring that the Administration respond to questions and suggested changes to an agreement that the Administration intends to sign.

The third amendment would permit amendments to the implementing legislation in certain specified areas. This would limit unwarranted encroachment on the Congress' domestic lawmaking authority by the Executive and preserve the legislative power of the Congress to modify or reject measures submitted by the President for its approval.

The final amendment would strike the current December 15, 1993, deadline for completion of the Uruguay Round. This amendment is motivated by two concerns: a general concern that the unilateral



setting of deadlines by the United States has led the U.S. to grant unmatched concessions in an attempt to meet the deadline while its trading partners have felt no equivalent pressure; and a specific concern that the December 15th deadline does not provide sufficient time to negotiate the changes necessary to make the Uruguay Round agreement a good deal for the United States.

These amendments would not completely address my concerns, particularly with respect to the effects of the Uruguay Round on agriculture, but they would alleviate many of them. Without them, for the many reasons I have cited, I cannot support an extension of fast track authority for the Uruguay Round.