

1 EXECUTIVE COMMITTEE MEETING

2 TUESDAY, AUGUST 4, 1992

3 U.S. Senate,

4 Committee on Finance,

5 Washington, DC

ORIGINAL

6 The meeting was convened, pursuant to notice, at  
7 11:26 a.m., in room SD-215, Dirksen Senate Office  
8 Building, Hon. Lloyd Bentsen (Chairman) presiding.

9 Also present: Senators Moynihan, Baucus, Bradley,  
10 Mitchell, Pryor, Riegle, Daschle, Packwood, Dole,  
11 Danforth, Chafee and Grassley.

12 Also present: Vanda McMurtry, Staff Director and  
13 Chief Counsel; Edmund Mihalski, Chief of Staff, Minority.

14 Also present: Catherine Novelli, Office of the USTR;  
15 Bob Perito, Director of the China Office, Department of  
16 State; Bob Kyle, International Trade Counsel, Majority;  
17 Marcia Miller, Professional Staff, Majority; Debbie Lamb,  
18 Professional Staff, Majority.

19 [The press release announcing the meeting follows:]

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1           The Chairman. Well, today we are going to mark-up  
2 legislation that defines our trade relations with two  
3 countries, two countries that offer a dramatic contrast  
4 in the post-Soviet world.

5           We have before the committee one bill that defines  
6 the objectives of U.S. policy toward China, the last  
7 great Communist power. The bill asks China to make  
8 progress in meeting those objectives if it wants to  
9 continue the profitable trading relationship it enjoys  
10 with this country today.

11           At the same time, we have another bill that sets us  
12 on a course of closer economic relations with Albania,  
13 the smallest of the new democracies that has emerged from  
14 the ashes of the Soviet empire. The story in those two  
15 countries could not be more different.

16           Our relations with Albania, both political and  
17 economic, are in their infancy. We restored diplomatic  
18 relations with Albania just over a year ago, after a 45-  
19 year break. We did not know much about Albania during  
20 that 45-year period because it was isolated and  
21 insulated.

22           But, in the past year, we have seen impressive  
23 progress in that small country, and now has a  
24 democratically elected government. And that new  
25 government, controlled by the Democratic party, is moving

1 ahead with radical economic reform programs.

2 The Albanian Government and the people know that that  
3 road ahead--the road of democracy and free markets--is a  
4 tough one and not easy. But they are off to a good  
5 start.

6 China, on the other hand, is on another road--the  
7 road of repression and command economy. In legislation  
8 earlier this year, the Congress delivered a message that  
9 China should not expect to continue the lucrative trade  
10 relationship that it has with the United States if it  
11 continues the sorry human rights record, its  
12 protectionist trade practices, and its de-stabilizing  
13 weapon sales abroad.

14 Unfortunately, the President chose to veto that trade  
15 bill. And the President has again recommended to  
16 Congress that China's MFN status be extended for another  
17 year, but not much has changed on the road that the  
18 Chinese leadership is following.

19 On July the 21st, the House again passed legislation,  
20 by an overwhelming margin, that would condition renewal  
21 of China's MFN status next year on improvements in its  
22 human rights practices, its restrictive trade schemes,  
23 and its weapon proliferation policies.

24 In the Senate, the Majority Leader has also  
25 introduced a new bill, S. 2808, setting forth conditions

1 for extending China's MFN status. Both the House and the  
2 Senate bills have been referred to the Finance Committee,  
3 and, at the appropriate time, I will move that the  
4 Finance Committee report the House bill without  
5 recommendation, with an amendment to substitute the text  
6 of S. 2808 for the text of the House bill.

7 I will also move that the Finance Committee report  
8 Senate Joint Resolution 317 favorably, thus approving MFN  
9 treatment for Albania. Are there other members who wish  
10 to speak?

11 Senator Packwood. I just have a question.

12 The Chairman. Yes. Senator Packwood.

13 Senator Packwood. Either of Ms. Miller or Ms. Kyle.  
14 Yugoslavia has MFN, do they not?

15 Mr. Kyle. I believe that is correct, Senator.

16 Senator Packwood. And they have it not as a  
17 Communist country; it does not have to be renewed every  
18 year.

19 Mr. Kyle. That is correct.

20 Senator Packwood. And it basically extends, I take  
21 it, to the government in Belgrade. We have not yet  
22 started to scatter it about.

23 Mr. Kyle. Yes, sir.

24 Senator Packwood. And it will not automatically be  
25 withdrawn, despite these holocaust terrors, because they

1 are not a Communist country and it does not have to be  
2 renewed. So, it continues, despite their atrocities.

3 Mr. Kyle. I assume it would take Congressional  
4 action.

5 The Chairman. Senator Moynihan.

6 Senator Moynihan. Senator Packwood, you said we have  
7 not yet distributed it about.

8 Senator Packwood. I did not know if we had, or not.

9 Senator Moynihan. Well, as successor states,  
10 Slovenia and Croatia would have Most Favored Nation  
11 treatment. Would it not?

12 Mr. Kyle. It might be useful if the State Department  
13 representatives were here. They could speak to this.

14 Senator Moynihan. It would be helpful if we got that  
15 clear. Yes.

16 The Chairman. Can we have someone from the State  
17 Department comment on that for us? Would you identify  
18 yourself, please?

19 Ms. Novelli. My name is Catherine Novelli, and I am  
20 the Director for Eastern Europe and Independent States of  
21 the U.S. Trade Representative's Office, but I think I can  
22 answer your questions, even though I am not from the  
23 State Department.

24 The Chairman. You are from where?

25 Ms. Novelli. I am from the U.S. Trade

1 Representative's Office.

2 The Chairman. All right.

3 Ms. Novelli. And I am the Director for Eastern  
4 Europe and the Independent States.

5 The Chairman. All right.

6 Ms. Novelli. And it is true that Yugoslavia, Serbia,  
7 Montenegro, does have MFN, as do all of the other new  
8 states that used to be part of Yugoslavia.

9 Senator Moynihan. As successor states, their  
10 relationship with us of that kind just cascades.

11 Ms. Novelli. Yes. Right. That is correct. And  
12 Yugoslavia was not covered by the Jackson-Vanik  
13 Amendment. It had MFN by the force of U.S. law, and that  
14 is why it continues to have MFN.

15 Senator Moynihan. Thank you.

16 The Chairman. Thank you. Further questions?

17 Senator Chafee. Mr. Chairman, is this the time to  
18 make some comments on this? Is your idea to go directly  
19 to this now?

20 The Chairman. Yes.

21 Senator Chafee. I mean, are you preparing to move  
22 it? I do not want to jump ahead of others who want to  
23 comment.

24 The Chairman. No, no. If you have some comments,  
25 that is fine. I am sure that Senator Mitchell would --

1           Senator Chafee. Well, Mr. Chairman, let me just say  
2           that this is a subject we voted on already this year. We  
3           had a vote on sustaining in the veto. On March 18th, the  
4           veto was sustained. Everybody deplores the so-called  
5           gridlock that exists in the Congress of the United States  
6           now, and it seems to me that this is only accentuating  
7           it.

8           I might pull out, Mr. Chairman, a few pearls that  
9           were delivered by a very distinguished member of the  
10          Senate that certainly apply to this legislation. "Let no  
11          member of the public be fooled and misled by what is  
12          occurring here.

13          This is a political exercise; an effort to create  
14          material; 30-second pack television spots in the fall  
15          campaign. This legislation has no chance of being  
16          enacted." We all know that. These are quotes.

17          "Everybody in the Senate knows that. Everybody in  
18          the Senate understands that. Notwithstanding that,  
19          certainly, we have been required to endure this waste of  
20          time. In just a few minutes, the Senate"--this could  
21          apply to this committee--"will be able to end this  
22          charade; will be able to end nearly a week of wasted time  
23          and return to serious legislative business.

24          It is phony legislation, a phony argument, a phony  
25          exercise. We ought to give it a prompt and decent

1 burial, and then go about serious business." Those words  
2 were uttered by a very distinguished member of this  
3 committee, one we are proud of, who is the Majority  
4 Leader of the Senate, in connection with some legislation  
5 on the Floor of the Senate.

6 And, Mr. Chairman, that is what I think it is all  
7 about. I just do not understand why we are doing this  
8 once again. We have been through this exercise time and  
9 time again. We know it is not going to go anywhere.

10 We had four witnesses before us last week, and three  
11 of them agreed wholeheartedly that revocation of Most  
12 Favored Nation status for China would be a serious  
13 mistake. And I would just like to briefly quote some of  
14 the testimony.

15 From Arnold Kanter, from the State Department:  
16 "Withdrawal of MFN would work against our political and  
17 economic interests. It would do severe damage to the  
18 development of market-oriented institutions that contain  
19 the seeds of political reform in China. MFN is a blunt  
20 instrument. Denial would strike Chinese and Americans  
21 alike."

22 Mr. Ira Wolf, Office of the U.S. Trade  
23 Representative: "Removing MFN is not an effective means  
24 to bring about constructive change in China. Revocation  
25 of MFN would weaken our ability to affect the policies



1 and practices of the Chinese Government."

2 From Former Ambassador to China, Winston Lord:

3 "Revocation of MFN would have the following adverse  
4 effects: it would hurt many of the people in China who  
5 support reforms; it would deal serious economic and  
6 psychological blows to Hong Kong, as it heads towards  
7 1997; it would damage American economic interests in many  
8 of the areas, and the Japanese, Europeans and others  
9 would move in." I would like to stress that, Mr.  
10 Chairman. This is an invitation for the other nations to  
11 move right in. It would remove a key instrument of  
12 leverage with China.

13 Now, it will be pointed out that Mr. Lord supported  
14 this legislation. He did not oppose this legislation.  
15 The question before the House is, by taking this step, is  
16 it going to end up in the same situation as if we revoked  
17 the MFN?

18 Would the Chinese leaders, those ancient leaders who  
19 are all over 80, say, we are not going to submit to what  
20 they might well term blackmail? And the experts in the  
21 business suggest that that is exactly what will happen.

22 I might point out, Mr. Chairman, that we are going a  
23 single course here if we adopt this legislation. No  
24 other nation in the world has adopted this type of  
25 approach toward China. I just think it is a very, very

1 serious mistake.

2 You know, the United States somehow has the view that  
3 we can make these demands and these other nations are  
4 just going to step right into lane and acquiesce with  
5 what we want. But it does not always work. And there  
6 are many who believe, for example, that the Jackson-Vanik  
7 effort that we made did not help, but worsened the Soviet  
8 emigration policies.

9 And, in this case, it seems to me the risks are high.  
10 The risks are that China is going to pull herself back  
11 behind these closed walls, as far as the United States is  
12 concerned. Whatever chance the United States had of  
13 exercising influence there dissipated. So, I think it is  
14 a great mistake, Mr. Chairman, to adopt legislation like  
15 this. And I, clearly, am going to vote against it.

16 The Chairman. Well, I know of no one better  
17 qualified to respond to that, particularly since his own  
18 words were used, than the Majority Leader.

19 Senator Dole. Would the Majority Leader want me to  
20 speak first? Because you may want to rebut what I am  
21 going to say, too.

22 (Laughter)

23 The Chairman. I leave that to the Majority Leader.

24 Senator Mitchell. Yes.

25 The Chairman. Senator Dole.

1           Senator Dole. I am going to ask that my entire  
2 statement be made a part of the record.

3           The Chairman. That will be done.

4           (The prepared statement of Senator Dole appears in  
5 the appendix.)

6           Senator Dole. This is the opening of our annual  
7 China MFN hunting season in the Senate, when some will  
8 mount their high moral perch and take pot-shots at George  
9 Bush on the issue of Most Favored Nation status for  
10 China.

11           And, as usual, the President's critics will try to  
12 portray this as an issue of who cares: who cares about  
13 human rights; who cares about the proliferation of  
14 advanced weaponry; who cares about trade abuses.

15           And they will say, we care, and George Bush does not  
16 care. They will say the only way you prove you care is  
17 to vote with us. Well, that is the essence of the  
18 argument. The issue is not who deploras China's human  
19 rights, weapons proliferation and trade issues; we all  
20 do.

21           The real issue is whether MFN is the right tool to do  
22 something about it. We deny MFN to less than ten  
23 countries. Even Iraq, Libya and Iran have MFN. The fact  
24 is, we have not generally used MFN as a weapon to fight  
25 other battles, for the very good reason that it does not

1 work.

2 Mr. Chairman, there are a number of reasons that I  
3 have set forth here, but I know we want to move whatever  
4 we are going to do here as quickly as we can. But I am  
5 particularly pleased to note that they are now in our  
6 automobile market, and I know that must please the  
7 distinguished Senator from Michigan.

8 You can bet on it, if we cut off MFN, they will  
9 retaliate by denying us its markets, costing us billions  
10 in exports, and, in this recession, wiping out hundreds  
11 of thousands of American jobs. Last year, a reputable  
12 American economic organization estimated that terminating  
13 MFN to China would cost 300,000 jobs in the first year.

14 Governor Clinton's campaign managers may wake up  
15 every morning hoping to read headlines of higher  
16 unemployment, but does the rest of America want to see  
17 those things happening? So, it seems to me, Mr.  
18 Chairman, that this resolution is a no-jobs bill; it is  
19 for more unemployment.

20 We just had a ground-breaking arrangement with the  
21 three major auto manufacturers--GM, Chrysler, and Ford--  
22 to import \$130 million in automobiles this year.

23 Senator Chafee. Export.

24 Senator Dole. Export. I have not figured out how  
25 many automobiles that will be. China is going to buy

1 that many automobiles from Detroit.

2 This is the first major purchase of complete American  
3 cars ever by the Chinese. It is widely expected that this  
4 will be the first in an ongoing series of such purchases.  
5 That is the way the Chinese work: they decide on a  
6 supplier and they stick with that supplier. And now they  
7 have settled on Detroit.

8 And I would hope that all those that are on the  
9 Senate Floor every Friday afternoon talking about jobs  
10 and what it means to their States understand that this  
11 might create a few jobs. And this is just the first  
12 order. But they are not going to stay settled very long.

13 They are not going to go it alone in the world. I  
14 imagine the Japanese and others are standing on the  
15 sidelines with a broad smile on their face, hoping that  
16 we will play politics with the MFN.

17 How many jobs are at stake in Michigan and at auto  
18 plants around the U.S.? I do not know for certain, but  
19 my staff is looking into it. But \$130 million in brand-  
20 new sales adds up to a lot of jobs.

21 If it is just a down payment on a whole string of big  
22 Chinese purchases, it means thousands and thousands and  
23 thousands of more jobs. So, it just seems to me, for all  
24 the reasons that we have stated many times before, that  
25 we ought to support the administration on this.

1           And I also support the Chairman's reference to  
2           Albania. They are probably the poorest country in the  
3           world, and they need this kind of recognition. It may  
4           not help much, but it will help some. So, I certainly  
5           share the Chairman's views on Albania, if not MFN status  
6           of China. And I yield to the Majority Leader.

7           The Chairman. The Majority Leader.

8           Senator Mitchell. Mr. Chairman, we have debated this  
9           often and I think it highly unlikely that the discussion  
10          here will change any of the votes in the committee. So,  
11          I will limit my remarks to responding to the points made  
12          by our colleagues, make just a couple of other points,  
13          and then ask that the full text of my statement be placed  
14          in the record, so as not to unnecessarily delay action by  
15          the committee.

16          The Chairman. That will be done.

17          (The prepared statement of Senator Mitchell appears  
18          in the appendix.)

19          Senator Mitchell. First, with respect to the  
20          automobile joint ventures, those are joint ventures.  
21          They are excluded under this legislation. So, it is  
22          incorrect to suggest that they would be adversely  
23          affected by this legislation.

24          Secondly, with respect to the question of jobs, the  
25          Trade Representative's Office and many national economic

1 organizations have suggested that there is a certain  
2 number of jobs lost with respect to each billion dollars  
3 of a trade deficit that the Nation runs with other  
4 nations. The most commonly used estimate is 20,000 such  
5 jobs.

6 The U.S. trade deficit with China last year was \$12.7  
7 billion. It is accelerating at a rate such that if the  
8 current trends continue, that deficit will be \$20 billion  
9 this year. From \$12.7 billion to \$20 billion in one  
10 year. And the \$12.7 billion itself was a remarkably  
11 rapid increase in just a couple of years.

12 That translates into 400,000 American jobs lost as a  
13 direct result of that deficit. And the more we continue  
14 the policy of making concessions to China, permitting  
15 them, with the total control that the Communist tyrants  
16 in China have, to manipulate trade, to increase that  
17 deficit, we continue to lose hundreds of thousands of  
18 American jobs directly. So, any concern about jobs  
19 squarely results in a decision to support the  
20 legislation.

21 Third, arguments were cited in opposition to  
22 legislation which revokes MFN status. Of course, that is  
23 not this bill. That is the class straw-man argument  
24 arguing against a proposition that is not before us, and  
25 suggesting, somehow, that it relates to this legislation.

1           This is reasonable legislation with attainable  
2 objectives which will, once and for all, require the  
3 Chinese Communist tyrants to engage in fair trade  
4 practices, to discontinue their unfair trade  
5 practices, and, we hope, pay some attention to human  
6 rights. It was suggested that this is the annual MFN  
7 status.

8           Senator Dole. Hunting season.

9           Senator Mitchell. Hunting season. Yes. I would  
10 suggest that this is the annual "apologize for the  
11 Chinese" season. Mr. Chairman, one of the most  
12 shocking things I have heard said in my lifetime was said  
13 to members of the Senate and House assembled in the  
14 Rotunda of the Capitol last year by the Dalai Lama. He  
15 said that the Chinese have murdered one million Tibetans.

16           I have never heard that rebutted by anyone other than  
17 members of the Chinese Government. It is a figure so  
18 shocking, a crime so monstrous, that, if true, it must  
19 evoke some conscience among Americans.

20           A country with five or six million people, to have  
21 one million people murdered. We are rightly now  
22 horrified by the events occurring in the former  
23 Yugoslavia. We were indignant at other tyrants engaging  
24 in killing in other places around the world over the past  
25 few years. Yet, I can find from our colleagues no



1 evidence of concern about that.

2 I do not know if it is true. I find it hard to  
3 believe. I find it almost impossible to believe that a  
4 crime so monstrous could have occurred and have evoked so  
5 little response from Americans. Inquire as I might, I  
6 can find no one who will rebut it, who will say that it  
7 is untrue, that it is a lie by the Dalai Lama.

8 And I think that if it is true, in the absence of  
9 rebuttal--and there has been a long period for rebuttal--  
10 I think there is something we ought to think about.  
11 Should we be making --

12 Senator Moynihan. Would the Majority Leader yield  
13 just for one comment?

14 Senator Mitchell. Yes.

15 Senator Moynihan. I am sorry to say that, in effect,  
16 what you have just said the Dalai Lama has said has, in  
17 effect, been rebutted in testimony before the Committee  
18 on Foreign Relations on July 28, the first-ever hearing  
19 on Tibet.

20 The Deputy Assistant Secretary of State for East  
21 Asian Affairs, Secretary Anderson, put it this way:  
22 "Tibet suffered terribly, as did the rest of China, from  
23 the depredations of the cultural revolution from 1966 to  
24 1976. But that is all over." This resolution you have  
25 today speaks of people from the People's Republic of

1 China and Tibet as two different places.

2 The State Department's view is that they are one  
3 country; that the conquest of Tibet that the Dalai Lama  
4 talked about has already occurred, is a thing of the  
5 past, and is recognized by the United States. That is  
6 deplorable, in my view.

7 Senator Mitchell. Well, I thank my colleague. Mr.  
8 Chairman, I will not go on, as I said, because I think  
9 that the points have all been made. I will conclude,  
10 finally, by saying that we are all aware of the  
11 horrendous record of the Chinese in human rights, but  
12 also in the sale of missile and nuclear technology, which  
13 I believe continues to this day, notwithstanding the  
14 repeated promises and the repeated breaking of those  
15 promises. And I am shocked that our colleagues would not  
16 want to take action to encourage that discontinuance.

17 Mr. Chairman, I do have a technical amendment to  
18 bring the language of the Senate bill into conformance  
19 with the House-passed bill with respect to the definition  
20 of State-owned enterprises. And, at an appropriate time,  
21 I would like to move that amendment and then move the  
22 bill.

23 The Chairman. Are there further comments?

24 Senator Dole. Just one second.

25 The Chairman. Yes.

1           Senator Dole. I would only, in rebuttal, say that  
2           you may say there is an exception for joint ventures, but  
3           the Chinese are not going to put up with that. They are  
4           going to say, go fly a kite; we will buy automobiles  
5           somewhere else where we do not have to have the President  
6           make a finding on all these things. So, I think it is  
7           good to have the statement in there, but I do not think  
8           it has any effect if the Chinese are not going to  
9           tolerate it.

10           And, as far as human rights abuses, everybody is  
11           opposed to human rights abuses and proliferation of  
12           weapons, and all the other things. Certainly we share  
13           the Majority Leader's concern. And I will do some  
14           checking on Tibet, too, because I was there and it  
15           certainly was a very impressive ceremony.

16           But I think we have to decide basically whether we  
17           want to be at the table with the Chinese trying to make  
18           improvements in all of these areas, or whether we want to  
19           be outside the tent with no access at all, saying we are  
20           going to change all of these things from the outside.

21           I do not think we have a chance to change from the  
22           outside. We all share the views expressed by the  
23           Majority Leader, but I think we have to, in this case, be  
24           at the table, not outside trying to change things.

25           The Chairman. Are there further comments?

1 Senator Packwood. Could I ask a further question?

2 The Chairman. Senator Packwood.

3 Senator Packwood. Is the \$130 million auto deal a  
4 joint venture or is that a straight-out purchase?  
5 Anybody know?

6 The Chairman. Who is speaking here?

7 Mr. Perito. Senator, my name is Bob Perito. I am  
8 the Director of the China Office of the Department of  
9 State. The contracts which the Chinese signed in Detroit  
10 last week were a straight-out purchase of 7,000 vehicle  
11 units for \$130 million. The three joint ventures in  
12 China did not produce for export, they produced for the  
13 domestic market.

14 The Chairman. All right. Thank you. Any further  
15 questions?

16 Senator Chafee. Mr. Chairman?

17 The Chairman. Yes, Senator Chafee.

18 Senator Chafee. I would like to reiterate what the  
19 Republican Leader said. It seems to me, how can we use  
20 our influence, how can we affect what China does? I just  
21 feel very strongly, and certainly the witnesses have  
22 indicated so--not every witness--that the way to  
23 influence China is to be a player.

24 And if we withdraw, we are not going to be a player.  
25 And the Majority Leader is quite right; this does not

1 withdraw MFN for China. But the conditions are such that  
2 the Chinese leadership, in my judgment, and the judgment  
3 of others more expert than me, says that that ends it.  
4 That ends our relationship with China.

5 And, finally, Mr. Chairman, I would make one minor  
6 correction. The Republican Leader said this is the  
7 annual hunting season on MFN to China. It has now turned  
8 into semi-annually, since we voted on this thing already  
9 this year.

10 And I just think it is unfortunate that the Senate  
11 gets tied up in this once again. Are we going to be  
12 doing this every three months? I do not know what the  
13 program is around here. There is a lot of serious  
14 business to take care of out there on the Senate Floor,  
15 whether it is health care, or a host of other things.  
16 And to spend time on this--I think the quotes I had from  
17 the distinguished Majority Leader apply to this  
18 absolutely. Thank you.

19 The Chairman. Are there further comments? The  
20 Majority Leader.

21 Senator Mitchell. Mr. Chairman, I would like to just  
22 make one comment. The Chinese run a trade deficit with  
23 the rest of the world. They are running this year at the  
24 current rate of \$20 billion trade surplus with the United  
25 States. I believe there is not the remotest chance they

1 will surrender that surplus--not the remotest chance.

2 What they have gotten is the best of both worlds: a  
3 free ride from current administration policy with no  
4 pressure to change their unfair trade practices, no  
5 pressure to end their human rights violations, and no  
6 pressure to terminate their missile and nuclear  
7 technology sales.

8 And I believe the only way that we can do what our  
9 colleagues say they want to do--which is to encourage the  
10 Chinese to change those egregious practices is to enact  
11 legislation which conditions MFN's renewal a year from  
12 now--this does not do anything now, it continues it until  
13 July of 1993--on action as the legislation contemplates.

14 And, finally, I stand corrected in light of this  
15 gentleman's answer. I do not know who he is. The press  
16 reports indicated that they were joint ventures; they  
17 evidently were incorrect. It was upon that which I  
18 relied, and I stand corrected, based upon the statement  
19 this gentleman made.

20 The Chairman. Are there further comments?

21 (No response.)

22 The Chairman. I think it would be appropriate now  
23 for you to move your amendment.

24 Senator Mitchell. Mr. Chairman, I move the technical  
25 amendment to S. 2808, which clarifies the provision

1 limiting the denial of MFN to the products of State-owned  
2 enterprises and makes the language of Section 5  
3 consistent with the language of H.R. 5318, the House-  
4 passed bill.

5 The Chairman. Is there comment on the amendment?

6 (No response.)

7 The Chairman. If not, all in favor of the amendment,  
8 make it known by saying aye.

9 (A chorus of ayes.)

10 The Chairman. Opposed?

11 (No response.)

12 The Chairman. The amendment carries. Gentlemen, I  
13 now move to report the House bill without recommendation,  
14 with an amendment to substitute the text of S. 2808 for  
15 the text of the House bill. All in favor of that motion  
16 as stated --

17 Senator Chafee. Can we have a roll call on that, Mr.  
18 Chairman?

19 The Chairman. Yes, you may. All right. Call the  
20 roll, please.

21 The Clerk. Mr. Moynihan.

22 Senator Moynihan. Aye.

23 The Clerk. Mr. Baucus.

24 Senator Baucus. Aye.

25 The Clerk. Mr. Boren.

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



1           The Clerk. Mr. Durenberger.  
2           Senator Packwood. No, by proxy.  
3           The Clerk. Mr. Symms.  
4           Senator Packwood. No, by proxy.  
5           The Clerk. Mr. Grassley.  
6           Senator Grassley. No.  
7           The Clerk. Mr. Hatch.  
8           Senator Packwood. No, by proxy.  
9           The Clerk. Mr. Chairman.  
10          The Chairman. Aye.  
11          The Clerk. There are 11 Senators in favor; nine  
12          opposed.  
13          The Chairman. The amendment carries. I also move  
14          that the Finance Committee report Senate Joint Resolution  
15          317 favorably, thus approving MFN treatment for Albania.  
16          Senator Packwood. Second.  
17          The Chairman. There is a second. All in favor of  
18          the motion as stated, make it known by saying, aye.  
19          (A chorus of ayes.)  
20          The Chairman. Opposed?  
21          (No response.)  
22          The Chairman. Motion carried. Thank you. Next,  
23          Senators Chafee and Bradley have asked the committee to  
24          approve a study for the International Trade Commission on  
25          mackerel, which will look at trade barriers in major

1 foreign markets, look at the practices some of our  
2 competitors. The ITC has agreed to do the study. I move  
3 that we approve the request.

4 Senator Packwood. Second.

5 The Chairman. All in favor of the motion as stated,  
6 make it known by saying, aye.

7 (A chorus of ayes.)

8 The Chairman. Opposed?

9 (No response.)

10 The Chairman. Motion carried.

11 Senator Chafee. Thank you very much, Mr. Chairman.

12 The Chairman. We are delighted. This item is a bill  
13 to establish an Asset Forfeiture Fund in the Department  
14 of Treasury. It would fold the existing Customs  
15 Forfeiture Fund into a Treasury-wide Forfeiture Fund  
16 covering all of the Treasury law enforcement agencies.  
17 The fund would operate like the current Customs  
18 Forfeiture Fund.

19 When Customs, for example, seizes an asset as a  
20 result of its law enforcement actions, it may sell the  
21 assets and deposit the proceeds into the fund. Then it  
22 may use the money in the fund to pay certain expenses,  
23 like storage costs for seized goods, and may share the  
24 proceeds with State and local law enforcement agencies.

25 It has been Senator DeConcini's intention to add the

1 bill to the appropriations bill that his subcommittee  
2 marked up last week. But, frankly, it troubled me that  
3 another committee was legislation on matters that are in  
4 the jurisdiction of this committee, and I asked Senator  
5 DeConcini to let the Finance Committee take a look at it.  
6 He has agreed, and that is why we are taking up the issue  
7 today.

8 The bill is also important to the administration.  
9 Secretary Brady has called me, as Chairman of the  
10 committee, urging its consideration, that we act  
11 promptly, and I committed to do just that.

12 I know you have had some long and tough negotiations  
13 between Treasury and the Justice Department about how to  
14 structure that fund. And I believe what we are talking  
15 about is a good compromise. Would someone on staff make  
16 some comment on this, any further explanation?

17 Ms. Lamb. Thank you, Mr. Chairman. As you  
18 indicated, this fund will replace the Customs Forfeiture  
19 Fund with an agency-wide fund that will cover not only  
20 the Customs Service, but the IRS, the Bureau of Alcohol,  
21 Tobacco, and Firearms, the Secret Service, and two other  
22 Treasury law enforcement agencies. In addition, the U.S.  
23 Coast Guard will participate in the fund, just as it now  
24 participates in the Customs Forfeiture Fund.

25 The fund sets up two separate portions. One, is an

1 uncapped portion from which payments can be made pursuant  
2 to a permanent appropriation. And the second, is a  
3 discretionary capped portion of the fund for which there  
4 must be annual appropriations. The details on the types  
5 of payments that can be made from each of those two  
6 portions of the fund have been provided to staff.

7 The Chairman. Well, I think that is enough, unless  
8 the members have questions. I would say to the members  
9 that we have a question of appropriations here, and I  
10 want to report it out, but I want to hold the bill until  
11 we have resolved the question of appropriations with the  
12 Appropriations Committee and any other jurisdiction of  
13 other committees. And I would ask that we grant the  
14 staff the usual latitude on the technical corrections and  
15 drafting. I move the amendment.

16 Senator Packwood. Second.

17 The Chairman. All in favor make it known by saying,  
18 aye.

19 (A chorus of ayes.)

20 The Chairman. Opposed?

21 (No response.)

22 The Chairman. We will stand adjourned. Thank you.

23 (Whereupon, at 12:00 p.m., the meeting was  
24 concluded.)

25

C E R T I F I C A T E

This is to certify that the foregoing proceedings of an Executive Committee Meeting of the Committee on Finance, United States Senate, held on August 4, 1992, were transcribed as herein appears and that this is the original transcript thereof.



WILLIAM J. MOFFITT

Official Court Reporter

My Commission Expires April 14, 1994

SECTION-BY-SECTION SUMMARY OF S. 2808

(Prepared by the Senate Committee on Finance)

Tuesday, August, 4, 1992

Section 1. Short Title

Section 1 of the bill states the short title of the bill, the "United States-China Act of 1992."

Section 2. Findings and Policy

Section 2 sets forth certain findings relating to the demonstrations of the Chinese people in pursuit of democratic freedoms, and the actions and policies of the Government of China, that are the reasons for this bill. The findings note that the Government of China continues to violate internationally recognized human rights and deny citizens supporting the pro-democracy movement the right of free emigration. The findings also note that China continues to engage in unfair trade practices and that there are continuing reports of Chinese transfers of missile technology to the Mideast, Africa, and Asia.

Section 2 states that it is the sense of the Congress that the President should take such actions as necessary to achieve the purposes of this bill and that the sanctions being applied against China should be continued and strictly enforced. It also states the sense of the Congress that the President should direct the Secretary of Commerce to consult with members of the U.S. business community operating or investing in China to encourage them to adopt a code of conduct following basic principles of human rights.

Section 3. Standards for renewal of MFN status

The President's authority to waive the freedom-of-emigration requirements of section 402 of the 1974 Trade Act must be renewed annually through the renewal procedures set forth under section 402(d). Section 402(d) requires the President to submit to Congress, no later than 30 days prior to the expiration of the waiver authority, a document setting forth his reasons for recommending the extension of such authority.

Section 3 of this bill provides that the President may not recommend the continuation of a waiver for China for the 12-month period beginning July 3, 1993, unless the President reports in the document required under section 402(d) that the Government of China has met certain conditions. The President must report that the Government of China (1) has taken appropriate actions to begin adhering to the provisions of the Universal Declaration of Human Rights in China and Tibet, and is fulfilling the commitments made to the Secretary of State in November 1991; (2) has provided an acceptable accounting for those citizens detained as a result of the nonviolent expression of their

political beliefs, and released citizens so detained, to credibly demonstrate a good faith effort to release all those arrested in connection with the June 1989 events in Tiananmen Square; and, (3) has taken action to prevent exports of products made by prison labor to the United States.

The bill also requires that the President report that China has made overall significant progress in ceasing religious persecution and unfair trade practices, and adhering to international guidelines on weapons proliferation. The President may not find the latter condition to have been met if China has transferred M-9 or M-11 ballistic missiles or missile launchers to Syria, Pakistan, or Iran, or material for the manufacture of a nuclear explosive device to another country, if such transfer was to be used for the manufacture of such a weapon.

#### Section 4. Report by the President

Section 4 requires that, if the President recommends in 1993 that the freedom-of-emigration waiver be extended for China, any report regarding that waiver state the extent to which China has complied with the provisions of section 3.

#### Section 5. MFN Treatment for Nonstate-owned Enterprises

Section 5 provides that, if the President fails to request a waiver because the standards of the bill are not met or if the Congress enacts a resolution disapproving the President's decision to extend China's MFN status, MFN treatment would continue to apply for goods produced, manufactured, marketed or exported by a business, corporation, partnership, qualified foreign joint venture, or other person that is not a state-owned enterprise.

Section 5 provides that the Secretary of the Treasury shall determine which companies shall be considered state-owned enterprises for the purposes of this bill and compile and maintain a list of such companies. For the purpose of making such determinations, the bill provides definitions of the terms "state-owned enterprises" and "qualified joint ventures." The bill further provides that any person may petition the Secretary of the Treasury to review the status of a company and its exclusion or inclusion on the state-owned enterprise list.

#### Section 6. Sanctions by other countries

Section 6 provides that, if the President decides not to seek a continuation of the waiver in 1993, he shall undertake efforts to ensure that GATT members take similar action.

#### Section 7. Definitions

Section 7 defines certain terms used in the bill.

**BACKGROUND INFORMATION ON S.J. RES. 317, A RESOLUTION  
APPROVING THE EXTENSION OF MOST-FAVORED-NATION (MFN)  
TREATMENT TO THE REPUBLIC OF ALBANIA**

(Prepared by the Staff of the Senate Committee on Finance)

Tuesday, August 4, 1992

This document provides background information relevant to the Committee's consideration of the trade agreement with Albania and S.J. Res. 317, a resolution approving the extension of most-favored-nation (MFN) treatment to that country.

The U.S.-Albanian trade agreement was signed on May 14, 1992, and forwarded to the Senate for its approval on June 15, 1992. On July 2, 1992, Chairman Bentsen issued a press release requesting public comments on the agreement by July 17, 1992. In response, the Committee received four comments (from International Trade Council of Alexandria, Virginia; TKC International, Inc. of Washington, D.C.; The Satra Group of New York, New York; and New England-Albanian Relief Organization of Cleveland, Ohio), all urging the prompt approval of the agreement. In addition, the Committee received letters from Senators Kennedy, DeConcini, and D'Amato in support of the agreement.

This document provides information on the statutory requirements for extending MFN treatment to Albania; compliance with the Jackson-Vanik freedom-of-emigration requirements; the trade agreement itself; procedures for Congressional consideration of the trade agreement; and background on U.S.-Albanian trade. Copies of S.J. Res. 317 and an article-by-article summary of the agreement are attached. The full text of the agreement and copies of the accompanying side letters are available in the Committee on Finance.

Statutory requirements for granting MFN treatment to the products of communist countries.--The United States maintains two rates of customs duties for most imported products. The "column 1" rates of duty are relatively low, the result of various rounds of multilateral, reciprocal tariff negotiations. The "column 2" rates of duty are much higher; these were set by the Smoot-Hawley Tariff Act of 1930. The lower "column 1" rates of duty apply to countries to which the United States grants MFN treatment. Column 2 rates of duty apply to countries not accorded MFN status.

In 1951, Congress enacted the Trade Agreements Extension Act which required the President to suspend MFN status for countries under the control of international communism, including Albania. In Title IV of the Trade Act of 1974 (1974 Trade Act), Congress created a new statutory scheme for restoring MFN treatment to the products of those countries not receiving MFN treatment as of the date of enactment of the 1974 Trade Act (January 3, 1975), including Albania.



Under Title IV, the President may grant MFN treatment if two basic conditions are met: (1) compliance with the requirements of the freedom-of-emigration provisions of the 1974 Trade Act, commonly known as the Jackson-Vanik amendment, or a waiver of those requirements; and (2) conclusion of a bilateral commercial agreement with the United States that contains specific provisions identified in section 405 of the 1974 Trade Act.

Compliance with Jackson-Vanik requirements.--Under the Jackson-Vanik amendment (section 402 of the 1974 Trade Act, as amended), MFN treatment may be granted to non-market economies if the President finds that the country is affording its citizens the right of free and unrestricted emigration. The President is authorized to waive this requirement if he determines that doing so will substantially promote the objectives of the law and if he has received assurances that the emigration practices of the country will lead substantially to the achievement of the objectives.

The President first waived the Jackson-Vanik requirements for Albania on May 20, 1992, at which time the country became eligible for U.S. Government credits and credit guarantees. On June 3, 1992, the President extended the waiver for one year. In his report to the Congress, the President stated that he had received from the Albanian Government the requisite assurances on freedom of emigration. Specifically, the President stated that the U.S. Ambassador to Albania, during two meetings with Albanian Foreign Minister Serreqi, had "received assurances that the government of Albania strongly favors free emigration and will do all in its power to assure that the country's emigration practices reflect a total commitment to free emigration."

The trade agreement.--Title IV of the 1974 Trade Act also requires that a bilateral commercial agreement be in effect before MFN treatment may be granted to the countries subject to Title IV. Section 405 of the Act sets forth a number of specific provisions that must be included in these agreements. They must, for example: be limited to three years in duration (but are renewable for three-year periods); provide for suspension or termination at any time for national security reasons; include safeguard arrangements; and include provisions relating to the protection of intellectual property, the settlement of disputes and the promotion of trade.

On May 19, 1992, U.S. Trade Representative Carla Hills and Albanian Deputy Minister for Trade and Foreign Economic Relations Naski Afezolli signed a bilateral commercial agreement providing for the reciprocal extension of MFN treatment. The agreement also contains a number of additional provisions designed to facilitate trade between the two countries. Included in the agreement are measures to encourage the mounting of trade

promotion events; ease the establishment of business offices and the direct hire of employees; and improve the transparency of laws and regulations affecting trade and commercial matters. Additional provisions require that trade be conducted in convertible currencies and require the parties to provide non-discriminatory treatment with respect to a range of financial transactions. In addition, hard currency earnings from trade may be immediately repatriated. Further, Albania agreed to provide strong protection for intellectual property. A summary of the agreement is attached.

**Procedures for Congressional consideration of the trade agreement.**--The 1974 Trade Act, as amended by the Customs and Trade Act of 1990, provides expedited ("fast-track") legislative procedures for Congress to consider both bilateral commercial agreements and Presidential declarations proclaiming MFN status for those countries which have entered into commercial agreements which meet the Title IV requirements.

Under Title IV, as amended, such trade agreements and MFN proclamations may take effect only after the House and Senate adopt a joint resolution of approval under "fast-track" procedures (*i.e.*, no amendments and limited debate). Under section 151 of the Trade Act of 1974, the approval resolution with respect to such trade agreements is automatically referred to the Finance Committee. No amendments are in order. The procedures of section 151 provide for final Congressional action on an approval resolution within 90 session days after its introduction.

**U.S. trade with Albania.**--Trade volumes with Albania are low. U.S. exports in 1991 reached \$18 million, with coal (\$6.7 million), wheat (\$5.5 billion), and butter (\$1.7 million) our leading exports. U.S. imports from Albania totaled \$3.2 million, led by crude vegetable materials (\$3 million) and explosives (\$73,000). In the first five months of 1992, U.S. exports reached \$15 million, a 143 percent increase over the comparable period in 1991. U.S. imports from Albania in the January-May 1992 period were valued at less than one million dollars.

The General Accounting Office has concluded that, unless there is a major change in the composition of U.S. imports from Albania, MFN status would have limited impact on the tariff rates paid on U.S. imports from Albania since most of the items the United States has historically imported from Albania are items that enter the United States duty free or with low tariff rates. In 1991, for example, less than one percent of the total value of goods imported from Albania was subject to import duties.

Attachments

102D CONGRESS  
2D SESSION

# S. J. RES. 317

Approving the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of the Republic of Albania.

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## IN THE SENATE OF THE UNITED STATES

JUNE 16, 1992

Mr. MITCHELL (for himself and Mr. DOLE) (by request) introduced the following joint resolution; which was read twice and referred to the Committee on Finance

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## JOINT RESOLUTION

Approving the extension of nondiscriminatory treatment (most-favored-nation treatment) to the products of the Republic of Albania.

- 1 *Resolved by the Senate and House of Representatives*
- 2 *of the United States of America in Congress assembled,*
- 3 That the Congress approves the extension of non-
- 4 discriminatory treatment with respect to the products of
- 5 the Republic of Albania transmitted by the President to
- 6 the Congress on June 16, 1992.

O

## SUMMARY OF THE U.S.-ALBANIAN TRADE AGREEMENT

Tuesday, August 4, 1992

**Article I.**--Article I provides that the United States and Albania shall accord unconditional most-favored-nation (MFN) treatment to products originating in the other in matters relating to customs duties, methods of payment, import and export regulations, taxes, and laws affecting the handling and usage of such products in each other's market. It further provides that each country will accord to the products of the other nondiscriminatory treatment with regard to quantitative restrictions and the granting of licenses, except for Albanian exports of textiles and textile products. This Article also provides that each country will accord to the products of the other nondiscriminatory treatment with respect to the allocation of and access to currency to pay for such imports.

**Article II.**--Under Article II, both countries agree to administer all tariff and non-tariff measures in a manner which affords meaningful competitive opportunities to the products and services of the other country. Article II prohibits each country from imposing on the products of the other any charges or internal taxes in excess of those applied to like domestic products and requires national treatment with respect to all laws and regulations affecting the sale, distribution, purchase, transportation, storage, or use of products. It further obligates each country to ensure that technical standards are not obstacles to trade. Finally, under Article II, Albania agrees to accede to the Convention Establishing the Customs Cooperation Council and the International Convention on the Harmonized Commodity Description and Coding System.

**Article III.**--This Article sets forth the agreement of both countries to maintain a "satisfactory balance of market access opportunities" through reciprocal reductions of tariff and non-tariff barriers. It also provides that trade is to be conducted between the two countries by means of contracts concluded as exercises of independent commercial judgment on the basis of non-discrimination and customary commercial considerations such as price, quality, availability, delivery, and terms of payment. In addition, Article III provides that neither country will require or encourage barter or countertrade. However, in the event that nationals or companies choose to resort to such practices, this Article provides that both Governments will encourage them to furnish each other with all necessary information to facilitate such transactions.

**Article IV.**--Article IV includes general provisions concerning the desirability of expanding two-way trade and commits both countries to take "appropriate measures" to encourage the exchange of goods and services. Article IV also states the mutual expectation of both countries that the agreement will result in increased orders for each other's goods and services.

Moreover, under Article IV, the countries agree to facilitate the holding of trade promotional events and encourage their companies and citizens to participate in such events. Article IV further provides that, consistent with their laws, the United States and Albania will permit the duty-free importation and reexport of articles used in trade promotion events.

**Article V.**--Article V stipulates that each country shall allow government commercial offices to hire directly host country and third country nationals, consistent with applicable immigration laws. This Article also contains general provisions concerning unhindered access to government commercial offices, participation in the activities of these offices, and access to government personnel at Federal and sub-Federal levels.

**Article VI.**--This Article contains a number of provisions aimed at facilitating business transactions between the United States and Albania. These provisions relate to the establishment of "commercial representations," the direct hire of employees, importation of office equipment, access to office space, living accommodations, employment of agents and distributors, the stocking and distribution of samples and replacement parts, advertising, market research, and access to services provided by governments (e.g., public utilities). Article VI also prohibits each country from imposing measures which unreasonably impair the contractual or property rights of the companies or citizens of the other country.

**Article VII.**--In Article VII, the United States and Albania agree to make publicly available on a timely basis all laws and regulations relating to trade, investment, and other commercial matters. This Article also stipulates that each country shall provide access to available non-confidential information on its economy. In addition, Article VI requires each party to permit nationals and companies of the other country to comment on the formulation of rules and regulations which affect the conduct of business.

**Article VIII.**--This Article stipulates that trade between the United States and Albania is to be conducted in U.S. dollars or other convertible currencies, unless the parties to individual transactions agree otherwise. The Article also binds the parties not to restrict the export of convertible currencies or deposits obtained in connection with trade in goods and services. Article VIII also permits nationals and companies to deposit local currency in local financial institutions, and requires the better of MFN or national treatment with respect to a range of financial transactions.

**Article IX.**--In Article IX, both countries agree to provide adequate and effective protection and enforcement of intellectual property rights. This Article details the commitments of each country with respect to adherence to international agreements, copyrights, trademarks, patents, semiconductor chip designs, trade secrets, unfair competition, and enforcement.

**Article X.**--In Article X, both countries agree to work toward agreements on taxation and investment issues such as the repatriation of profits and the transfer of capital. The two countries agree generally to foster economic and technical cooperation in such fields as statistics and standards. The two countries also agree to consult on services trade.

**Article XI.**--Article XI provides safeguards calling for prompt consultations and permitting the imposition of import restrictions in cases of market disruption.

**Article XII.**--This Article incorporates a number of provisions relating to the settlement of disputes. For example, Article XII grants national treatment to the nationals and companies of both countries with respect to access to courts and administrative bodies, encourages the adoption of arbitration, sets forth desired arbitration procedures, and provides that each country is to ensure that there is an effective means for the recognition and enforcement of arbitral awards.

**Article XIII.**--Article XIII stipulates that nothing in the agreement limits the right of either country to take actions to protect its national security interests.

**Article XIV.**--In this Article, the United States and Albania agree to establish a Joint Commercial Commission which will periodically review the operation of the agreement. Article XIV also provides for prompt consultations through appropriate channels to discuss any matter relating to the agreement.

**Article XV.**--This Article provides definitions of the key terms used in the agreement.

**Article XVI.**--Article XVI contains several exceptions to the agreement. The agreement is not to be construed, for example, to prohibit measures necessary to enforce laws or regulations which are not contrary to the purposes of the agreement, measures to protect intellectual property rights, or other measures covered by GATT Article XX. The Article also states that nothing in the agreement limits the application of any existing or future agreement between the United States and Albania on textiles.

Article XVII.--Article XVII concerns the entry-into-force of the agreement, stipulates that the initial term of the agreement will be three years, with possible extensions for three-year terms, and provides for suspension or termination of the agreement. It also calls for immediate consultations if each country encounters problems concerning its domestic legal authority to carry out the obligations of the agreement.

Side Letters.--Separate side letters concern the promotion of tourism and provide the terms of reference for the Joint Commercial Commission.

**TREASURY ASSET FORFEITURE FUND**

(Prepared by the Staff of the Senate Committee on Finance)

Tuesday, August 4, 1992

**Present Law**

Under 19 U.S.C. 1613b, the proceeds from assets seized and forfeited from investigations by Customs Service officials are deposited into the Customs Forfeiture Fund. For all other Department of the Treasury law enforcement bureaus, proceeds from seized and forfeited assets are deposited into the Department of Justice Assets Forfeiture Fund, 28 U.S.C. 524. Under current law, any transfers made from the Department of Justice Fund to the Department of the Treasury law enforcement bureaus, except for the Customs Service, are made at the discretion of the Department of Justice, subject to certain statutory restrictions.

**Chairman's Proposal**

**Overview.**--The Chairman's proposal would establish in the Treasury Department a Department of the Treasury Asset Forfeiture Fund. The Fund would apply to all Department of the Treasury law enforcement organizations. The Fund would be available to the Secretary of the Treasury to pay or reimburse certain costs and expenses related to seizures and forfeitures that occur pursuant to the Department of the Treasury's law enforcement activities. Participating Treasury law enforcement agencies would include the U.S. Customs Service, the U.S. Secret Service, the Internal Revenue Service (except pursuant to sections 7301 or 7302 of the Internal Revenue Code), the Bureau of Alcohol, Tobacco and Firearms (BATF), the Financial Crimes Enforcement Network, and the Federal Law Enforcement Training Center. In addition, the U.S. Coast Guard would participate in the Treasury Forfeiture Fund, just as it participates under current law in the Customs Forfeiture Fund.

Just as the Customs Service and Department of Justice currently have a permanent indefinite appropriation to pay certain costs related to seizure and forfeiture, the Treasury Fund would be available for expenses that are currently authorized in the Customs or Justice Fund statutes, with the same fiscal limitations.

**Detailed description of Chairman's proposal.**--The Chairman's proposal establishes in the Treasury of the United States the Department of the Treasury Forfeiture Fund, which shall be available to the Secretary of the Treasury to pay, subject to certain limitations:



- all proper expenses related to seizures or the proceedings of forfeiture and sale, including investigative costs, storage costs, maintenance costs, advertising costs, and maintenance costs;
- costs associated with contracting out post-seizure property management services or reimbursement of any Federal, State, or local agencies that perform these services;
- awards to informers;
- certain liens on forfeited property;
- expenses if the forfeiture is remitted or mitigated;
- claims of parties in interest for property disposed under 19 U.S.C. 1612(b) because the property is not likely to produce an economically viable return;
- equitable sharing expenses and related costs for law enforcement agencies that participated directly or indirectly in a seizure or forfeiture effected by a Treasury law enforcement organization;
- expenses that are necessary and directly related to seizure and forfeiture programs, including automated data processing equipment, contracting for services to assist in identifying assets which may be subject to forfeiture, processing and accounting services, and expenses of storage;
- costs of certain experts and consultants.

In addition, under the Chairman's proposal, the Secretary of the Treasury may, at his discretion, make payments for various expenses from capped amounts authorized to be appropriated. These expenses would include payments for:

- information leading to certain recoveries or evidence or information of violations of laws enforced by Treasury agencies;
- publication of the availability of awards to informers;
- equipment for vehicles, vessels or aircraft for official use by Treasury law enforcement agencies or State and local enforcement agencies that would use the equipment to assist in joint law enforcement operations;
- overtime salaries, expenses and training of State and local law enforcement agencies that are incurred in joint law enforcement activities;

- private persons, when the Secretary deems it appropriate, who assist in undercover operations;
- expenses incurred in training foreign law enforcement personnel regarding U.S. seizure and forfeiture laws.

The Chairman's proposal also includes the following provisions:

- a continuation of payments to the Coast Guard, which are currently authorized in the Customs Forfeiture Fund;
- a requirement that all forfeited currency and proceeds from all forfeitures occurring under any law enforced by Customs or the Coast Guard during FY 1993 or by all Treasury law enforcement agencies and the Coast Guard for fiscal years after FY 1993 be deposited in the Treasury Forfeiture Fund;
- a requirement that all amounts that the Treasury Secretary determines are not currently needed for purposes of the Fund be deposited or invested in obligations of, or guaranteed by, the United States, with earnings from such investments to be deposited into the Fund;
- a requirement for a number of annual reports to the Congress detailing the operation of the Fund and including audited financial statements;
- an authorization for a permanent indefinite appropriation from the Fund to pay for such sums as may be necessary to administer the Fund and carry out its purposes;
- an authorization for certain year-end transfers and reservations. The Chairman's proposal would authorize the Treasury Secretary to retain administrative carry-over amounts not to exceed \$30 million for the beginning of FY 93, and not to exceed \$50 million thereafter, subject to a limited increase at the Secretary's discretion. The proposal would also authorize the transfer for FY 1994 and FY 1995 of up to \$10 million from the Fund for use in the "Drug Free Schools and Communities" program. For fiscal years after FY 1994, any remaining surplus amounts would be available to the Secretary for the law enforcement activities of any Federal agency or Department of the Treasury, subject to certain notification procedures;
- a provision codifying discretionary authority for retention or transfer of property forfeited by any Treasury law enforcement organization;

- a provision authorizing the Secretary to issue necessary rules and regulations;
- a provision holding in abeyance the Customs Forfeiture Fund during the existence of the Treasury Forfeiture Fund;
- a provision explicitly preserving the immunity of the United States from liability for actions or omissions occurring after property is transferred under the Fund;
- a provision granting the Secretary the discretionary authority to warrant clear title to property forfeited under any law enforced by Treasury;
- a clarification that property will be deemed forfeited under a law enforced by Customs or the Coast Guard, and, for fiscal years after FY 1993, by any Treasury law enforcement agency or the Coast Guard, if the underlying seizure was made by an officer of these agencies, if custody were maintained by these agencies or if forfeiture were effected administratively by these agencies;
- a provision providing for transfer from the Fund to the Attorney General of amounts appropriate to reflect the net contributions of Department of Justice law enforcement agencies;
- a procedural amendment relating to the BATF authorizing the use of Customs forfeiture procedures for BATF forfeitures;
- definitions and technical conforming amendments.

DANIEL PATRICK MOYNIHAN, NEW YORK  
 MAX BAUCUS, MONTANA  
 DAVID L. BOREN, OKLAHOMA  
 BILL BRADLEY, NEW JERSEY  
 GEORGE J. MITCHELL, MAINE  
 DAVID PRYOR, ARKANSAS  
 DONALD W. RIEGLE, JR., MICHIGAN  
 JOHN D. ROCKEFELLER IV, WEST VIRGINIA  
 TOM DASCHLE, SOUTH DAKOTA  
 JOHN BREAUX, LOUISIANA

BOB PACKWOOD, OREGON  
 BOB DOLE, KANSAS  
 WILLIAM V. Roth, JR., DELAWARE  
 JOHN C. DANFORTH, MISSOURI  
 JOHN H. CHAFFEE, RHODE ISLAND  
 DAVE DURENBERGER, MINNESOTA  
 STEVE SYMMS, IDAHO  
 CHARLES E. GRASSLEY, IOWA  
 ORRIN G. HATCH, UTAH

# United States Senate

COMMITTEE ON FINANCE  
 WASHINGTON, DC 20510-8200

VANDA B. McMURTRY, STAFF DIRECTOR AND CHIEF COUNSEL  
 EDMUND J. MIHALSKI, MINORITY CHIEF OF STAFF

August 4, 1992

The Honorable  
 Don E. Newquist  
 Chairman  
 U.S. International Trade Commission  
 Washington, D.C. 20436

Dear Mr. Chairman:

The development of the U.S. Atlantic mackerel resource, one of the few remaining underutilized species on the Atlantic coast, is of concern and interest to the U.S. Congress. Therefore, the Senate Committee on Finance requests that the U.S. International Trade Commission conduct an investigation under section 332(g) of the Tariff Act of 1930, as amended (19 U.S.C. 1332(g)), for the purposes of assessing the competitiveness of U.S. mackerel products in foreign markets.

In its investigation, the Commission should, to the extent possible, develop information on the following subjects:

- (1) U.S. foreign industry profiles.--Provide economic profiles of the U.S. and foreign mackerel harvesting and processing sectors, including the extent of direct government involvement in the industry.
- (2) U.S. and foreign markets.--Describe the U.S. market and important foreign markets for mackerel products, particularly markets in the Middle East, Europe, West Africa, and the Caribbean. In addition, descriptions should be provided of tariff and non-tariff barriers encountered in these markets.
- (3) Competitiveness assessment.--An analysis should be provided of the principal factors having a significant bearing on the competitiveness of U.S. mackerel products in both U.S. and foreign markets, including trade barriers, government policies, and other economic factors.

The Honorable  
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The Commission should report the results of the investigation no later than 10 months following receipt of this letter.

Thank you for your cooperation in and attention to this important matter.

Sincerely,

Lloyd Bentsen  
Chairman

*Gene Durenberger*

STATEMENT ON U.S.-CHINA ACT, S.2808  
Committee on Finance  
August 4, 1992

SENATOR DAVE DURENBERGER

Mr. Chairman, as I have done repeatedly in the past, I will vote again to oppose efforts to condition Most Favored Nation (MFN) trade status for China.

Several times in recent years, the Senate has debated and voted on this issue. This has been an important debate that has helped illuminate the many inter-related issues on the MFN matter.

Because the issues are well known, I will not waste the Committee's time by restating those positions in full.

I would, however, just summarize my perspective very briefly. First, I remain convinced that it is in our nation's best economic and geopolitical interests to maintain normal trading relations with China. Several times, I have urged my colleagues to consider not only the likelihood that conditioning MFN would fail to achieve the desired objectives in China, but that it would profoundly damage U.S. economic and political interests.

Second, it is difficult for this Senator to envision what benefits our country derives from returning to a policy in which we actively seek to isolate China.

Third, I remain persuaded that unilaterally using trade as a foreign policy weapon only hurts the American exporter and consumer. Other countries will always step in to fill the void left by our unilateral withdrawal from a market. This is precisely what happened with the failed U.S. embargo against the Soviet Union in 1979.

More recent experience has also taught us that the corollary to this reality is also true. That is, that economic and trade policy can be a meaningful foreign policy tool only when applied multilaterally, in concert with the world's other trading partners. United Nations economic and trade sanctions against Iraq have had meaning only because the world acted in unison.

I ask my colleagues again, will Japan follow our lead in restricting trade with China? Will France or Germany? Will Australia or Brazil? No, Mr. Chairman, of course not. Their farmers and businesses will simply step in and take the business that we unilaterally sacrifice.

Fourth, it remains my view that it is fundamentally inappropriate for the United States, acting alone, to start and stop trade with other countries because of disputes over human rights matters. If we applied these same standards to any number of our other trading partners, we would be unilaterally restricting trade all over the Third World.

Last summer, I quoted at length from the publications of respected international human rights organizations regarding the records of various trading partners. No one is calling for revoking normal trade relations with Indonesia or Kenya, Mexico or Brazil, Turkey, South Korea or India. Acting alone, the United States cannot, regrettably, change the behavior of the rest of the world. The forum for addressing these issues is not through trade, but through vigorous diplomatic efforts.

Mr. Chairman, I wish to emphasize that neither President Bush nor this Senator believes that extending unconditioned MFN can be interpreted as condoning China's human rights practices, its irresponsible weapons proliferation policies, or its various troublesome trade practices. But strictly conditioning and ultimately revoking MFN on a unilateral basis simply will not have the desired impact in China. Attempting to apply a complicated and practically unworkable formula defining what constitutes a product from a state-owned enterprise only makes matters worse.

Mr. Chairman, I renew my call to President Bush and Secretary Baker to keep the pressure on China to improve their various policies and practices that we and other responsible members of the international community rightly find so objectionable. Clearly, more needs to be done to persuade China to respect internationally accepted norms of behavior in areas such as human rights and weapons proliferation.

But MFN is the wrong tool for the job. It is a blunt instrument that holds little promise for achieving otherwise laudable objectives. Effectively revoking MFN will only kick the legs out from under the negotiating table at which we address our very real and serious problems with China. That might give some of us a degree of short-term satisfaction, but precious little long-term gain.

Mr. Chairman, I urge my colleagues to take the long-term view and oppose this latest variation on conditioning MFN for China. Thank you.

STATEMENT OF SENATOR MAX BAUCUS

S. 2808 MARKUP

August <sup>4</sup>~~1~~, 1992

We've been through this debate on many occasions, so I won't take up much of the Committee's time today.

There is one critical change between this year's and last year's bills conditioning MFN for China. This year's bill would aim retaliation only against state run enterprises, attempting to leave non-state enterprises untouched. Unfortunately, as the Administration and a number of business groups have testified, determining whether Chinese products come from "state" or "non-state" enterprises is a practical impossibility.



But more importantly, the change in this year's bill highlights its central flaw: Trading with China is itself one of our best tools for promoting the reform we all seek. This bill would cut off one of our most effective means to foster change.

Were MFN the only tool for addressing our concerns with China, I might support this legislation. But MFN is not the only tool.

In response to congressional pressure, the U.S. last year undertook an important new China policy. The new policy is based on targeted actions to address our specific concerns with China. No one can say the new policy has achieved all of its goals. It hasn't.

But nor is it accurate to say nothing has been achieved. The U.S. is now acting under trade statutes written by this committee to address our concerns on trade. The U.S. this year pushed China to join the Nuclear Nonproliferation Treaty and to abide by the principles of the MTCR. In the area of human rights, we may soon sign a memorandum of understanding on prison labor.

A lot more remains to be done, particularly in the area of human rights. I have sent a letter to the President which solicits new, targeted actions -- a continuation of the process set in place last year.

There is no monopoly of concern over China. I respect the convictions of my colleagues supporting this legislation. But we have an honest difference of opinion over how best to affect change in China.

I think this bill is the wrong approach.

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## STATEMENT OF SENATE MAJORITY LEADER GEORGE J. MITCHELL

AUGUST 4, 1992

FINANCE COMMITTEE MARKUP OF

S. 2808 THE UNITED STATES-CHINA ACT OF 1992

Thank You Mr. Chairman,

Last week the committee heard testimony from two Administration representatives and from Mr. Winston Lord, the former United States Ambassador to China and Mr. Lane Kirkland, President of the AFL-CIO, who also has served in China, regarding ~~extending~~ most-favored-nation trade status <sup>for</sup> ~~to~~ the People's Republic of China.

In reviewing the witnesses' testimony, I was particularly impressed by Ambassador Lord's position that he favors conditional renewal of MFN trade treatment because he believes it represents the ~~brightest and~~ best chance to promote United States geopolitical, economic, and humanitarian interests with the People's Republic of China.

I agree with Ambassador Lord. ~~I believe that American interests are best served by emphasizing our fundamental principles on human rights, not by ignoring the brutal violations of human rights in China.~~

This bill is a reasonable attempt to support fundamental American values while giving the Administration a useful tool ~~to~~ <sup>to encourage</sup> ~~extracting~~ meaningful progress in human rights and trade ~~from~~ communist Chinese leaders who ~~intensely~~ need to preserve the \$15 billion trade surplus they enjoy with our country.

The bill does not seek to impose ~~any~~ ~~new~~ ~~or~~ unattainable, conditions on extending most-favored-nation trade treatment to ~~the~~ ~~people's~~ ~~republic~~ of China. On the contrary, it merely requires that China abide by commitments already made ~~in~~ regarding ~~to respect for universal~~ human rights, fair trade practices and missile and nuclear <sup>technology sales,</sup> ~~proliferation.~~

~~It~~ <sup>does not</sup> ~~discourage~~ the spread of free enterprise, or restrict the growth of American business in China. If the Chinese leaders do not keep their commitments, then beginning in July 1993, MFN tariff treatment would not be allowed for products and exports of Chinese state-owned enterprises, but would continue in force for products and exports of joint ventures and private enterprises.

~~I believe the Chinese people aspire to enjoy the benefits of liberty the same as all other people around the world. The Administration's policy of the past three years of ignoring these aspirations is a failure.~~ <sup>has failed.</sup>

It is time to change that policy. ~~It is time to apply the MFN legislative leverage that is available to the Congress in the measured and responsible way this bill does, to not only support American principles and interests, but to give hope to the millions of Chinese people struggling for freedom from a brutal communist tyranny.~~

Mr. Chairman, at an appropriate moment I would like to offer a technical amendment to clarify certain provisions of the ~~language in the bill.~~

**A. BIOGRAPHICAL:**

1. **Name:** Carolyn P. Chiechi  
(last name was changed from Schapp to Chiechi in July 1956 after remarriage of my mother to Michele A. Chiechi, M.D., my adoptive father)
2. **Address:** Home Address:  
8700 Honeybee Lane  
Bethesda, MD 20817  
  
Business & Mailing Address:  
1275 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004-2404
3. **Date and Place of Birth:** December 6, 1943  
Newark, New Jersey
4. **Marital Status:** Single
5. **Names and Ages of Children:** None
6. **Education:** Georgetown University,  
September 1969 - June 1971,  
LL.M. in Taxation - June 1971  
  
Georgetown University,  
September 1966 - June 1969,  
J.D. - June 1969  
  
Georgetown University,  
September 1961 - June 1969,  
B.S., magna cum laude - June 1965
7. **Employment Record:** October 1971 to present  
Partner/Attorney  
Sutherland, Asbill & Brennan  
1275 Pennsylvania Avenue, N.W.  
Washington, DC 20004-2404  
(202) 383-0129  
  
August 1969 to August 1971  
Attorney-Advisor to  
Judge Leo H. Irwin  
United States Tax Court  
400 Second Street, N.W.  
Washington, DC 20217  
(202) 376-2754

July 1966? to February 1967?  
Computer Programmer  
Office of Education  
(Computer Services Section)  
Department of Health, Education  
and Welfare  
400 Maryland Ave., S.W.  
Washington, DC 20202  
(202) 708-5366

November 1965 to July 1966?  
Administrative Assistant  
Volunteers in Service to America  
Office of Economic Opportunity  
1100 Vermont Avenue, N.W.  
Washington, DC 20525  
(202) 606-4845

8. Government  
Experience:

August 1969 to August 1971  
Attorney-Advisor to  
Judge Leo H. Irwin  
United States Tax Court  
400 Second Street, N.W.  
Washington, DC 20217  
(202) 376-2754

July 1966? to February 1967?  
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Office of Education  
(Computer Services Section)  
Department of Health, Education  
and Welfare  
400 Maryland Ave., S.W.  
Washington, DC 20202  
(202) 708-5366

November 1965 to July 1966?  
Administrative Assistant  
Volunteers in Service to America  
Office of Economic Opportunity  
1100 Vermont Avenue, N.W.  
Washington, DC 20525  
(202) 606-4845

9. Memberships:

District of Columbia Bar  
1969-Present  
Member  
Washington, DC



District of Columbia Bar  
Chairperson, Taxation Section  
Steering Committee, 1981-1982  
Washington, DC

District of Columbia Bar  
Chairperson, Tax Audits and  
Litigation Committee, Taxation  
Section, 1987-1988  
Washington, DC

American Bar Association  
1969-Present  
Member  
Main Office in Chicago, IL

Women's Bar Association of the  
District of Columbia  
Member  
4/92-Present

United States Claims Court Bar  
Association  
1987-Present  
Member  
Washington, DC

United States Claims Court Bar  
Association  
Vice Chairperson, Committee on  
Practice and Procedure,  
1988-Present  
Washington, DC

Federal Circuit Bar Association  
1988-Present  
Member  
Washington, DC

Federal Bar Association  
1969 - Present  
Member  
Washington, DC

American College of Tax Counsel  
1991 to present  
Fellow  
Nashville, TN

**American Bar Foundation  
1987 to present  
Fellow  
Washington, DC**

**Georgetown University  
1988 to present  
Member of Board of Regents  
Washington, DC**

**Georgetown University  
1986-Present  
Member of National Law Alumni Board  
Washington DC**

**Stuart Stiller Memorial Foundation  
1986 to present  
Member of Board of Directors  
Washington, DC**

**Council for Excellence in  
Government  
1990 to present  
Principal  
Washington, DC**

**National Tropical Botanical Garden  
1984? to present  
Member  
Lawai, Kauai, HI**

**Republican National Lawyers  
Association  
1991 to present  
Member  
Washington, DC**

**A. BIOGRAPHICAL**

1. David Laro
2. 395 Huntington Drive, Ann Arbor, MI 48104
3. March 3, 1942; Flint, Michigan
4. Married to the former Nancy Lynn Wolf
5. Rachel Lynn Laro, 23; Marlene Ellen Laro, 21
6. University of Michigan, 1960-64, (B.A., 1964); University of Illinois College of Law, 1964-67, (J.D., 1967); and New York University Law School, 1969-70, (LL.M. in Taxation, 1970).
7. 

<u>Title</u>	<u>Employer</u>	<u>Location</u>	<u>Dates of Employment</u>
Attorney	Hoffman & Rubenstein	Flint, MI	1967-69
Attorney	Winegarden, Shedd	Flint, MI	1970-75
Attorney	David Laro, P.C.	Flint, MI	1975-92
Attorney	Conlin, McKinney	Ann Arbor, MI	1988
Pres. CEO	Durakon Industries Inc	Lapeer, MI	1989-91
8. Police Commissioner, Flint Township; Chairman, State Tenure Commission; Member, State Board of Education; Regent, University of Michigan.
9. American Bar Association; Michigan Bar Association; Genesee County Bar Association. Economic Dinner Club, Ann Arbor; Holocaust Foundation, Ann Arbor Advisory Board.
10. Fundraiser, Bush/Quayle 1988 and 1992; Fundraiser, Bill Schuette for Congress 1990; Fundraiser, Reagan/Bush 1980 and 1984; Contributor to President Bush (\$2000.00) in 1992; Judge Wilder; Sen. Schwarz; Governor Engler; Washtenaw County Republican Party.
11. Winner, Moot Court Competition, Illinois College of Law.
12. See attached
13. See attached

14. I am honest, hard working, and ethical. If confirmed, I intend to be a judge who has compassion for people and who will administer the tax law in a fair and objective manner. I believe in promptly addressing matters before me.

I have a Master of Laws in Taxation from New York University Law School which has given me a solid foundation for understanding complex tax matters. I have written tax articles delivered speeches to many professional organizations and others on the subject of taxation and am recognized as an expert.

Perhaps, most important is that I have an appreciation for the practical as well as the theoretical application of the tax law. After practicing tax law for over twenty years, I understand the problems and issues in tax controversies. My several business experiences have given me a basis for understanding business tax problems. I will bring to the U.S. Tax Court a combination of high integrity, skill, ability, energy and enthusiasm.