

MINE

1 MARKUP SESSION REGARDING AUTHORIZATION FOR A U.S.-ISRAEL  
2 FREE-TRADE AREA AND LIMITED OTHER TARIFF NEGOTIATIONS  
3 WEDNESDAY, MAY 9, 1984

4 U.S. Senate  
5 Committee on Finance  
6 Washington, D.C.

7 The committee met, pursuant to notice, at 10:18 a.m.,  
8 in room SD-215, Dirksen Senate Office Building, the  
9 Honorable Robert Dole (chairman) presiding.

10 Present: Senators Dole, Roth, Danforth, Chafee, Heinz,  
11 Symms, Grassley, Long, Bentsen, Moynihan, Boren, Bradley,  
12 Mitchell and Pryor.

13 Also Present: The Honorable William Brock, United States  
14 Trade Commission.

15 Also Present: Roderick DeArment, Esquire, Staff  
16 Director and Chief Counsel; Michael Stern, Esquire, Staff  
17 Director, Minority; Ted Kassinger; Claude Gingrich; and  
18 Jeffrey Lang.

19 (The press release announcing the session follows:)  
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1           The Chairman. We have an agenda this morning that lists  
2 as number one the modification of the disability insurance  
3 procedures and then authorization for limited trade  
4 negotiating authority, and then third, retroactive relief  
5 from the Dickman case.

6           I had intended that the agenda first have us look at  
7 the negotiating of the limited trade authority.

8           Let me say with reference to disability that I want to  
9 commend the staff for their continuing efforts to try to  
10 bring together a package that we might be able to support  
11 unanimously. I am not certain we can achieve that, but I  
12 am going to suggest that we spend another day on that  
13 effort before we bring it up and start chopping away in  
14 the committee.

15           Senator Baker has tentatively agreed that we will  
16 consider this legislation on the 22nd of May on the Senate  
17 floor, and I have also talked to Senator Cohen and Senator  
18 Levin, and they understanding that we are meeting on this.

19           And I have spent several hours myself to try to figure  
20 out some way to resolve some of the problems. And it is  
21 my hope that we can do that.

22           If not, we will just have to propose a package and  
23 let people change it if they wish.

24           Ambassador Brock mentioned to me a few days ago his  
25 concern that we had not addressed the Administration's

1 limited tariff cutting proposal. There is an outline that  
2 we all have that describes essentially what it does.

3 We will wait just a second for those interested in  
4 disability to --

5 (Laughter)

6 The Chairman. We are not going to take up the Dickman  
7 case, either, this morning, so --

8 (Laughter)

9 The Chairman. Now, the others in the room, I assume,  
10 are interested in the tariff-cutting authority, or are just  
11 passing through town.

12 Ambassador Brock, would you like to outline what you  
13 would like to do if you have the votes?

14 Ambassador Brock. Thank you, Mr. Chairman.

15 We had a conversation on this about six or eight weeks  
16 ago now?

17 The Chairman. Right.

18 Ambassador Brock. Fundamentally, our request was made  
19 because we have had the expression of interest on account  
20 of Israel so far and substantially strengthened the bilateral  
21 relationship which could lead to the phasing-down of  
22 virtually all barriers between us in the trade area.

23 The obvious hope and objective of such an exercise is  
24 to substantially increase the business we do with one  
25 another and increase the jobs that can be created as a

1 consequence of that action.

2 It was my hope that the committee would authorize me  
3 to engage in these negotiations, would grant to the President  
4 an expanded 102 authority to allow us to negotiate in tariff  
5 as well as nontariff areas with the goal of hopefully  
6 completing negotiation and then bringing any such agreement  
7 back to the Senate and to the House for your acquiescence  
8 on a fast-track basis as Section 102 requires.

9 I think we discussed earlier in the previous hearing  
10 the economic logic, and I would simply reiterate the fact  
11 that our analysis has shown a very substantial net benefit  
12 for the United States.

13 Ninety percent of the Israeli products, for example,  
14 entering the United States enter duty-free now, and about  
15 half of the products that we sell to them enter duty-free.

16 So, there is a great opportunity to U.S. increased  
17 business.

18 There is the negative argument that the EC has such  
19 an arrangement with Israel, and unless we adopt a similar  
20 arrangement, the United States business people will be  
21 frozen out of that market, as the EC agreement phases in.

22 In the instance of Canada, we are taking a somewhat  
23 different approach of trying to negotiate by sector. U.S.  
24 access to the Canadian market is already about 65 percent  
25 duty-free.

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1 Canadian access to our market is about 80 percent  
2 duty-free. In that case, we almost assume that we have  
3 a free trade zone now, and we are simply trying to remove  
4 those remaining barriers to increase the flow of business  
5 that would occur.

6 As you know, we have submitted a request to the ITC  
7 for an economic analysis of Israeli program. That report  
8 is due in the next couple of weeks, and it is my belief  
9 that it will be favorable.

10 It does identify some problem areas that will be minor  
11 and things that can be accommodated in the negotiation.

12 I am not sure that I need to spend much time on the  
13 general premise, Mr. Chairman, but rather I think I would  
14 like to say that as a consequence of Senator Long's concern,  
15 we have modified our proposal.

16 And I think that it is the modified proposal that is  
17 now before you.

18 Senator Long raised a very legitimate concern which  
19 we share that if we were to adopt a bilateral agreement of  
20 this sort, that under our treaties with other countries,  
21 we might be required to extend -- without concession on  
22 their part -- these benefits to a number of additional  
23 countries.

24 That clearly was not our intention. Senator Long was  
25 absolutely right in raising the concern. As I told you,

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1 Senator, yesterday, we share that and have no desire  
2 whatsoever to have that as a consequence.

3 What we have tried to do, Mr. Chairman, is to write  
4 legislation in such a fashion as to preclude that possibility.  
5 So, we have added a number of changes to the earlier  
6 proposal which would include one specific provision to  
7 the effect that no tariff benefit extended under this  
8 provision would be extended to any third nation on the basis  
9 of any other authority -- in other words, an FCN Treaty  
10 or a trade agreement.

11 I hope that that satisfies that particular concern. It  
12 was the one concern that we thought was the most substantive  
13 concern raised about our proposal, and I think, thanks to  
14 Senator Long and his staff, we have an improved proposal  
15 before you today.

16 Senator Long. Could I just ask if Mr. Lang could  
17 comment on this? Mr. Lang, you were in the discussion with  
18 myself and the Ambassador, and I believe that you were  
19 going to talk with some of the staff and do what you could  
20 to resolve this problem.

21 Do you think that the modifications that are in the  
22 bill now will take care of my concern? I am willing to  
23 have a free trade arrangement with Israel. I don't think  
24 it is going to create any great problems with the United  
25 States.

1           We have a favorable balance of trade with Israel, and  
2 I think we can take more imports from Israel. But if we  
3 try to give the same thing to the rest of the world, then  
4 we will have somebody coming in and saying these old treaties  
5 give them the right to the same thing -- that could create  
6 all kinds of problems in this country.

7           Do you think that has been worked out adequately now  
8 to protect us from that type claim?

9           Mr. Lang. What has been worked out, Senator, gives  
10 you a role in protecting you from that sort of thing.

11           No agreement that was approved under this law at a  
12 later time by Congress would work any benefit to any country  
13 who has one of those old friendship commerce and navigation  
14 treaties.

15           However, if one of those countries wanted to enter into  
16 an agreement similar to the one that Israel will presumably  
17 enter into under this law, they could apply to the  
18 Administration, and if the cognizant committees in Congress  
19 did not disapprove of that negotiation within 60 days after  
20 they got notice from the Executive, then the Administration  
21 could proceed with the negotiation.

22           And if it were successful, offer up an implementing  
23 bill to Congress.

24           So, the mere --

25           Senator Long. But the implementing bill would not be

1 effective until the Congress agreed to it, right?

2 Mr. Lang. Yes, sir. That is correct.

3 Senator Long. So, basically, what we are saying --  
4 by this amendment -- is that as far as those old treaties  
5 that give most favored nations treatment to these favored  
6 countries, that they will have the right to do the same  
7 thing -- to enter the same type procedure that has been  
8 done with regard to Israel.

9 They would have the right to enter into negotiations  
10 with you, Mr. Brock, or your deputy, or your designate,  
11 and they can bring the proposal to the committee for our  
12 advice, and if we are willing to go along with it, then  
13 they would bring in a bill by a fast-track. And if Congress  
14 approves it, then they get the same benefit Israel gets  
15 by the same process.

16 Mr. Lang. That is right.

17 Senator Long. So, I think we can live with that.

18 Senator Bradley. Mr. Chairman?

19 The Chairman. Senator Bradley?

20 Senator Bradley. Is the authority that you are now  
21 asking for -- USTR -- is that authority that it now doesn't  
22 have?

23 Mr. Lang. Senator, under current law, the  
24 Administration does not have authority to negotiate or  
25 proclaim changes in rates of U.S. duty:



1           However, they do have authority through January 3,  
2 1988 to negotiate concerning nontariff barriers. In that  
3 case, however, they can't make by proclamation a change  
4 in U.S. law.

5           Instead, they submit what is called a fast-track bill  
6 to the Congress, which essentially means a bill that is  
7 not amendable, which they give us 90 days notice to  
8 consider in the Congress, as to which Congress is subject  
9 to certain time events.

10          Senator Bradley. But that applies only to nontariff  
11 areas?

12          Mr. Lang. Only nontariff matters. The change that  
13 the Administration is proposing, as I understand it, would  
14 extend the nontariff barrier authority, including the  
15 fast track, to tariff negotiations with Israel and Canada,  
16 subject to the provision that Senator Long just described.

17          Senator Bradley. Could you summarize the provision  
18 that Senator Long just described?

19          Mr. Lang. The provision Senator Long described would  
20 provide that no other country -- that is, other than Canada  
21 and Israel -- would derive any trade benefit by reason of  
22 an Israel or Canada agreement going into effect -- that is,  
23 being implemented by Congress and going into effect  
24 internationally.

25          However, if those countries wanted that benefit, they

1 could ask the United States for the benefit, and if Congress  
2 did not disapprove of the negotiation within 60 days, we  
3 would negotiate the agreement and come back with an  
4 implementing bill at the end of the negotiation.

5 Senator Bradley. Could you explain that a little more?  
6 They could ask Congress for the benefit?

7 Mr. Lang. No, I'm sorry. They could ask the  
8 Administration to enter into a negotiation leading to an  
9 agreement similar to the agreement with Israel and Canada.

10 Senator Bradley. So, a third country -- neither  
11 Israel nor Canada -- could request the Administration to  
12 enter into tariff reduction negotiations. And if the  
13 Administration chose to, they could indeed do that.

14 Mr. Lang. They could enter into the negotiation if  
15 Congress did not -- if the Finance Committee or the Ways  
16 and Means Committee -- did not disapprove of the negotiation  
17 within 60 days after the Administration told them they  
18 wanted to enter into the negotiations.

19 Senator Bradley. So, the difference is that Congress  
20 has to disapprove of the negotiations, and we have given  
21 authority to the USTR to reduce tariffs in negotiations.

22 Mr. Lang. No. The Executive still would not have  
23 the authority to reduce the tariffs as a result of those  
24 negotiations unless, following the negotiation, Congress  
25 also approved the new rates of duty, just as it will have to

1 do with respect to Israel and Canada, if an agreement is  
2 eventually arrived at.

3 In effect, there are two stages --

4 Senator Bradley. Oh, I understand what we are doing  
5 with Canada and Israel, which is to give authority to  
6 begin negotiations on nontariff, tariff barriers, free  
7 trade, whatever.

8 What is not clear to me is what additional authority  
9 we are giving to the USTR with regard to third countries.

10 Mr. Lang. We are giving them authority to request --

11 Senator Bradley. To respond to a request by a third  
12 country?

13 Mr. Lang. To enter into that negotiation, without  
14 disapproval of Congress.

15 Senator Bradley. So, the USTR could, say, go to Japan  
16 and conclude a series of agreements with Japan and come  
17 back and, unless Congress in 60 days disapproved --

18 Mr. Lang. No. They could not begin the negotiation  
19 unless Congress first did not disapprove. In other words,  
20 if Congress was silent for 60 days, they could begin the  
21 negotiation --

22 But it is not all of Congress -- it is just the Ways  
23 and Means Committee and Finance Committee.

24 Senator Bradley. And how will the Finance Committee  
25 and the Ways and Means Committee be notified that there

1 would be negotiations?

2 Mr. Lang. There is a notification procedure set up  
3 in the draft that the STRs general counsel's office has  
4 prepared. Essentially, it would be a letter from the  
5 President.

6 Senator Bradley. To each member of the committee, or  
7 to the chairman?

8 Mr. Lang. I think that part hasn't really been worked  
9 out in detail.

10 Senator Bradley. And then if the committee did not  
11 act in 60 days, the negotiations could commence.

12 Mr. Lang. Could proceed.

13 Senator Bradley. And if the negotiations were then  
14 completed, what happens after the negotiation?

15 Mr. Lang. When the negotiations are completed, the  
16 procedures under current Section 102 would apply. Those  
17 procedures are that when the Executive initials the  
18 agreement, it gives Congress at least 90 days notice of  
19 an intention to enter into a trade agreement.

20 It then consults with Congress about the terms and  
21 conditions of the agreement, and not fewer than 90 days  
22 after that initial notice, submits the agreement for  
23 approval, together with an implementing bill and a statement  
24 of the administrative actions it would take to implement  
25 the bill.

1 Congress then has a time schedule of, I think, 90 days  
2 that both Houses are in session -- almost like legislative  
3 days, but not quite -- in which it has an up or down vote  
4 on the Administration's implementing bill.

5 Senator Bradley. This provision gives the USTR the  
6 authority to negotiate reductions in nontariff and tariff  
7 barriers and free trade area discussions with Canada and  
8 Israel.

9 In addition, it says that if a third country petitions  
10 the Administration for tariff reductions, that the  
11 Administration may begin negotiations with that country  
12 after -- unless there is a negative decision by both the  
13 Ways and Means Committee and the --

14 Mr. Lang. No. Either one.

15 Senator Bradley. Either one -- the Ways and Means  
16 Committee or the Finance Committee. And there is a 60-  
17 day period in which that can be rendered, and if that is  
18 not rendered, then the agreement is reached, and Congress  
19 has 90 days to disapprove.

20 Mr. Lang. Really 180 days -- 90 days before the  
21 agreement is submitted and 90 days after the agreement is  
22 submitted.

23 Senator Bradley. Could I ask you --

24 Mr. Lang. I am sorry. It is 60 days after the bill  
25 is submitted.

1 Senator Bradley. 60 days.

2 The Chairman. That is fast track.

3 Senator Bradley. It is 45 days in the committee and --

4 Mr. Lang. But it is not just to disapprove on the  
5 final vote. Congress has to actually pass the bill in  
6 order for the agreement to be approved and implemented.

7 If the bill fails at passage within that period of  
8 time, the agreement is neither approved nor implemented.

9 Senator Bradley. And Congress cannot change that in  
10 any way?

11 Mr. Kassinger. After the bill has been submitted, no.  
12 What happened in 1979, Senator, was the Committee essentially  
13 marked a bill before it was submitted -- over the 90-day  
14 period that Jeff described -- after notification but before  
15 submission.

16 I should also make clear, Senator, that what I believe  
17 the Long amendment goes to is use of the fast track  
18 authority. It doesn't preclude, as we could not preclude,  
19 a President from initiating negotiations with a foreign  
20 country on any matter, but what the provision would preclude  
21 is the use of that fast track authority -- unamendable  
22 authority -- for any agreement unless the committee had not  
23 disapproved of a particular trade agreement.

24 That is, it restricts the ability of the President to  
25 gain access to fast track Congressional consideration because

1 what the Long amendment says is that, as a condition of  
2 using that, you have to come to the Congress first -- and  
3 both the Ways and Means Committee and the Finance Committee  
4 will have to have been consulted and not disapproved of  
5 your proceeding with the negotiation.

6 Senator Bradley. And the 60 days begins to run the day  
7 the letter --

8 Mr. Lang. The day the President gives notice to the  
9 Congress that the bill is submitted, I believe.

10 Senator Bradley. I am talking about the first 90 days  
11 that Congress has to disapprove.

12 Mr. Lang. The power to disapprove -- that 60 days will  
13 begin to run on the day that the President gives notice  
14 to the Chairman of the committee -- you know, that part is  
15 still not completely drafted -- but gives notice in some  
16 way that he intends to enter into such negotiations.

17 Senator Bradley. Have we had hearings on this aspect  
18 of the proposal?

19 Mr. Lang. No. The hearing on that question, as far  
20 as the notice of hearing went, the question of US-Israel  
21 free trade area --

22 Senator Bradley. It only covered what?

23 Mr. Kassinger. We had a hearing on the U.S.-Israel  
24 free trade issue. This is simply an amendment.

25 Senator Bradley. So, we have had no hearing on

1 Canadian free trade area?

2 Mr. Kassinger. Ambassador Brock discussed that at some  
3 length at the hearing, I believe.

4 Ambassador Brock. The modification that you have been  
5 asking about was in the form of basically an amendment.  
6 It was offered by Senator Long who raised this question, and  
7 we came up with a complete modification of our earlier  
8 approach to accomodate that concern and to accomodate the  
9 concern of those who wanted to be sure that the  
10 Administration was not off negotiating without authority.

11 We tried to write a proposal that went through actually  
12 three stages, rather than just one.

13 The first stage is that any Administration is required  
14 to come to the Finance Committee and notify you -- because  
15 you have the basic commerce authority -- and this is a  
16 delegated role that we have, and say that we have this  
17 request, and we would like you to say yea or nay as to  
18 whether or not we proceed.

19 If you say nay, then the issue is moot.

20 The second stage is if you authorize us to negotiate,  
21 it would be not for us to go to the other country but to  
22 the ITC, where again, as we have done with Israel --

23 Senator Bradley. I'm sorry, but I cannot hear.  
24 Maybe we should go in the back room.

25 Ambassador Brock. Sometimes you get more done there.



1           The second stage is to go to the ITC for their advice  
2 on any such negotiation -- whether it is by product or  
3 broad authority on a free trade approach. And if they then  
4 come down and say that it is generally acceptable and these  
5 are the problem areas, you then negotiate within those  
6 parameters.

7           The third stage is, having reached agreement, then  
8 you come back to the Congress under the 102 style which  
9 we do under the nontariff approach already.

10           So, it is effectively we are adding two new layers to  
11 the present authority in the nontariff area. We are putting  
12 it on with the tariff expansion.

13           Senator Bradley. How does this differ from Section  
14 124?

15           Ambassador Brock. 124, as you know, I would still  
16 like to have. 124 gave us a unilateral authority to  
17 negotiate -- mutual concessions on a specific product  
18 category. Up to 2 percent of our total trade a year.

19           And we were limited -- we couldn't negotiate on import  
20 sensitive items, and we couldn't negotiate on, I think, it  
21 was more than 20 percent in the existing tariff schedule.

22           So, it was a very limited product type of tariff  
23 authority.

24           Senator Bradley. But the proposal before us now does  
25 not contain Section 124 authority. Is that correct?

1 Ambassador Brock. I think, yes, it does.

2 Mr. Kassinger. The package that is proposed by the  
3 Administration has two elements, Senator Bradley.

4 The first would allow the free trade negotiations with  
5 Israel and Canada, by name only. That is an amendment to  
6 Section 102.

7 The second element of the proposal would amend Section  
8 124 to renew it also for three years -- until January 3,  
9 1988, in an amended form. The essence of the amendment is  
10 that there would be a cap on the total amount of trade  
11 that could be covered by its use, which would be half of  
12 what it was when it expired in 1982.

13 Senator Bradley. So, this does contain then a renewal  
14 of Section 124 for three years, but instead of 2 percent,  
15 it is 1 percent?

16 Mr. Kassinger. That is correct, Senator.

17 Senator Bradley. Uh huh.

18 Did we have a hearing --

19 Mr. Lang. I should say there is one other difference,  
20 Senator, and that is there were depth of cut limits in 124.  
21 There are no depth of cut limits in the Administration's  
22 current proposal.

23 That means that under old 124 they could only cut  
24 duties by set percentages, basically 80 percent of the then  
25 existing duty or the MTN rate, whichever was higher.

1 Now, there are no depth of cut limits.

2 Senator Bradley. So, you could cut --

3 Mr. Lang. To zero.

4 Senator Bradley. Tariffs to zero.

5 Mr. Lang. So long as you did not hit the ceiling of  
6 the trade coverage exceeding 1 percent of total imports in  
7 the previous calendar year.

8 Senator Bradley. Well, have we had a hearing on this  
9 -- on this particular provision of the bill?

10 Mr. Kassinger. No, sir.

11 Senator Bradley. I don't recall having a hearing on  
12 this. And the other point is have we had a hearing  
13 specifically on the Canadian free trade area?

14 I remember the hearing on the Israeli free trade, but  
15 I -- Was there a specific hearing on Canadian?

16 Mr. Kassinger. We have not had a specific hearing on  
17 it, Senator.

18 Senator Bradley. I mean, that raises some problems for  
19 me because frankly I was given this material and told  
20 yesterday we were having a hearing -- we were going to have  
21 a mark-up on this legislation today.

22 I mean, I am not so sure it is in the committee's  
23 interest to move on something that we haven't had a hearing  
24 on a free trade area, which is fairly substantial.

25 Maybe it is in our interest -- maybe it isn't. I don't

1 know. I haven't heard people come in and make the argument.

2 I have heard people come in and make the argument pro  
3 and con on the Israeli free trade area.

4 Nor have I heard what reauthorization of Section 124  
5 means.

6 I mean, I think even if it is only three years, it is  
7 still three years. So, I would hope that the committee  
8 would give some thought to either splitting off some of  
9 these things or pausing until we do have a hearing before  
10 we give Canada a free trade area.

11 Or before we reauthorize Section 124 in modified form.  
12 As I hear it, there are three proposals here.

13 One proposal is the Canadian and Israeli trade area.

14 The second proposal is reauthorization of Section 124  
15 at a 1 percent level instead of a 2 percent level.

16 And the third proposal is this third party -- the  
17 ability of the USTR to negotiate tariff reductions with  
18 a third party, pursuant to the Long provision.

19 And in all of these, the only thing we have had a hearing  
20 on is the Israeli free trade area.

21 Ambassador Brock. If I may just correct the record,  
22 Senator, we had hearings and debated at some length on the  
23 124 authority, and I have testified more than once before  
24 this committee on that particular subject.

25 I don't view the Israeli-Canadian proposal as in either

1 case new when I was testifying before. My request was for  
2 102 authority without limit.

3 We have restrained the legislation at your request to  
4 Canada and to Israel. My earlier desire, as I stated very  
5 clearly in the hearing six or eight weeks ago, was for a  
6 102 authority not constrained by country name, but to address  
7 the subject broadly.

8 The limitations that have been put on this particular  
9 bill are not expansions or new subjects. They are  
10 limitations at the request of members of this committee  
11 because of the concerns expressed by members of this  
12 committee.

13 The Chairman. I had agreed to recognize Senator Pryor,  
14 who had an amendment.

15 Senator Pryor. Mr. Chairman, I don't know at this  
16 point if the amendment is in order, but I would like, if  
17 I might, just take a moment and express my concern about  
18 what we are looking at.

19 First, I would like to ask a question of Ambassador  
20 Brock, if I might, and that is in the legislative process,  
21 as I understand it, if the committee would approve the  
22 measure today, then on specific items you are proposing  
23 to have a free zone for, then the Senate would absolutely  
24 be precluded on the floor from offering any specific  
25 amendment for exclusion. Is this correct?

1           In other words, if we offered an amendment to exclude  
2 an item -- a situation such as bromine -- if I don't offer  
3 that now, then I am precluded from offering that on the  
4 Senate floor. Is that correct or not correct?

5           Mr. Kassinger. That is correct, Senator. If the bill  
6 comes back under the fast track authority, then it would  
7 unamendable.

8           Senator Pryor. Unamendable.

9           Mr. Kassinger. After it is submitted.

10          Senator Pryor. I then have no other alternative, Mr.  
11 Chairman, but to offer an amendment. And basically, this  
12 amendment will be an exclusion.

13          One, the International Trade Commission -- with our  
14 governor's permission to testify before the ITC on the need  
15 to not have bromine included in those.

16          Our governor came up. It is my understanding that  
17 the International Trade Commission has a deadline of the  
18 4th on this matter. I see no reason to pass this proposal  
19 before that report is given by the International Trade  
20 Commission.

21          This is of parochial and I don't mind advocating my  
22 position at this time because we have directly affected  
23 1,250 jobs in bromine plants in south Arkansas.

24          Actually, in Union County in Arkansas, and in Lumpkin,  
25 Arkansas, we are faced with the reality that 85 percent of

1 all bromine in this country is produced in two Arkansas  
2 counties. In fact, I was just reminded by the distinguished  
3 Senator from Louisiana that several workers in these plants  
4 have come to Union County and Columbia County to work in  
5 these facilities, and I can imagine that some have come  
6 over from east Texas.

7 But we have 6,000 names on a petition in south Arkansas  
8 saying that their jobs or their families' jobs and small  
9 businesses related to this bromine industry are going to  
10 be adversely impacted should we include bromine in the  
11 proposal.

12 Now, I could go on and on about why we should not  
13 include bromine in the package. I have talked to  
14 Ambassador Brock personally about this and he has been  
15 very perceptive in listening to me and to our calls.

16 I am just very hopeful that we can -- at least even  
17 for the time being -- exclude bromine from being considered  
18 in the creation of duty-free trade with Israel.

19 I have no problem about the free trade with Israel.  
20 The only problem I have is with the bromine because of  
21 the adverse impact it will have on the jobs in Arkansas.

22 Finally, I don't think that the Ambassador or the  
23 Administration is attempting to put Arkansas people out  
24 of work, and that is exactly what I am very fearful is  
25 going to happen if we do not exclude bromine.

1           And also I might add, Mr. Ambassador, GATT Article 24  
2 requires that a free trade area cover "substantially all  
3 in the trade between the two countries."

4           I don't think that means that we can't make a few  
5 exceptions. Trade agreements with Australia, New Zealand,  
6 Morocco, Tunisia varies, I understand, from 50 percent to  
7 90 percent, so I am wondering why we can't in the U.S.-  
8 Israel agreement consider an exception for bromine.

9           That is my question.

10          Ambassador Brock. Okay. If I might respond, I don't  
11 think we are arguing, Senator, over bromine. I think we  
12 are discussing how you negotiate, and I don't know how --  
13 if we start adding a whole range of products to any  
14 authorizing legislation -- I don't know how anybody can  
15 negotiate.

16          It seems to me that you have a legitimate concern.  
17 I have met with you. I have met with your industry. And  
18 I understand how they feel.

19          I understand the exposure that they fear. But I also  
20 point out to you that the whole purpose of having an  
21 ITC investigation of such an issue is to identify those  
22 industries that might have a problem and to provide us as  
23 negotiators with some caution flags -- with some parameters  
24 -- within which we will try to achieve an agreement that  
25 is in the total United States interest.



1           And if that economic analysis identifies this industry  
2 as one in jeopardy, obviously we would take that into  
3 consideration in the negotiations.

4           My concern is that when you preclude us from considering  
5 these items, it is simply not rational to think that we  
6 would add one product exclusion to such legislation.

7           Every member of this committee is going to have  
8 somebody in their State that has some area of concern, and  
9 all of a sudden, then, you have eliminated any prospect for  
10 negotiation.

11           And then, you don't need a negotiator. I don't think  
12 the committee wants to-- You know, the reason you have  
13 delegated this authority to the President, and through him  
14 to me, is in order to be able to try to manage those  
15 problems for you.

16           And I understand your concern. All I can do is to  
17 assure you that when your concerns are expressed, we hold  
18 hearings. We listen to your industry. We bring them in.  
19 And we will take those concerns into consideration as we  
20 negotiate.

21           But I would very strongly hope that specific product  
22 amendments will not be precluded from the conversation  
23 with Israel.

24           Senator Pryor. Mr. Ambassador, my real concern is  
25 that once this horse leaves the barn, we are not going to

1 be able to catch it, because once you have that ability to  
2 negotiate on any specific item in the Administration's  
3 proposal -- once that item is negotiated, we are going to  
4 be basically precluded from any avenue to approach in  
5 dealing with it on the Senate floor.

6 So, this is our only chance to bring this matter to  
7 your attention and an attempt to have an exemption made  
8 for items that are going to cost hundreds and hundreds of  
9 jobs in one particular State.

10 Also, we have bromine activity in other States where  
11 it will constitute an adverse impact. And I think once we  
12 leave here today -- if we have a mark-up -- once again,  
13 notwithstanding the May the 30th report which is the final  
14 date for the International Trade Commission to submit it --  
15 I think we are too late.

16 And that is exactly why I think that I must talk to  
17 the issue at this time, and I think I am justified in doing  
18 so.

19 If the Ambassador has another suggestion, I am open  
20 to it.

21 The Chairman. I know there are a number of Senators  
22 who have specific products they would like to exempt -- I  
23 know Senator Mitchell, Senator Moynihan, Senator Heinz, and  
24 maybe Senator Grassley -- so I will yield to Senator  
25 Grassley.

1           Senator Grassley. Mr. Ambassador -- Israel and the  
2 United States are duty-free, and I don't know about the  
3 10 percent that would be negotiated. But during the  
4 hearings, I raised the point about the impact on  
5 agriculture.

6           Your answer to my question at that point was that  
7 probably agriculture would benefit, but we did have some  
8 farm organizations that testified against this.

9           And I guess my point now would be -- three or four  
10 months later after that initial testimony -- how does it  
11 look for American agriculture -- duty-free or a free trade  
12 zone between Israel and the United States?

13           Ambassador Brock. I think our analysis still would  
14 argue that there is a continued opportunity for improving  
15 our agricultural sales in Israel.

16           I want to point out to you that we already have a 6 to 1  
17 favorable balance in agriculture with Israel. We import  
18 about \$50 million. We export something like \$300 million.

19           And most -- I think virutally all -- that we sell to  
20 them goes in duty-free now. So, what you would look for  
21 is a stronger economic relationship, a stronger Israel,  
22 and therefore the ability to buy more.

23           I don't see any real opportunity or prospect of  
24 changing the relationship very much. I think we are going  
25 to continue to benefit by a very heavy ratio with this

1 agreement.

2 Senator Grassley. Have any farm organizations or  
3 commodity groups lobbied you or the Administration against  
4 the free trade zone, pursuant to testimony that was  
5 presented in opposition to this back in February?

6 Ambassador Brock. Yes, we have had some expressions  
7 of concern, primarily from the California specialty crops  
8 -- the smaller crop groups that would fear some competition  
9 with tomatoes, for example, and a couple of others.

10 But generally, not --

11 Senator Grassley. But not throughout agriculture as  
12 the entire picture?

13 Ambassador Brock. No.

14 Senator Grassley. No general farm organizations any  
15 more expressing opposition to it?

16 Ambassador Brock. Not to my knowledge. The only  
17 specific products that have been mentioned by the  
18 representatives have been tomatoes, garlic, artichokes,  
19 and pimentos.

20 Senator Grassley. Okay. Thank you, Mr. Chairman.  
21 And thank you, Mr. Ambassador.

22 Ambassador Brock. Thank you.

23 The Chairman. Senator Chafee?

24 Senator Chafee. Thank you, Mr. Chairman.

25 Mr. Ambassador, I have some general questions and then

1 some specific ones.

2 On the general side, isn't what we are doing here a  
3 departure from the procedures of the United States as  
4 regards trade for the past 30 or 40 years, namely we go  
5 into multilateral negotiations rather than these bilateral  
6 negotiations?

7 And I am leary about this business of taking up a  
8 nation. First, we did it with the CBI, a group of nations.  
9 Now, we are doing it with Israel and possibly Canada.

10 What has happened to the traditional approach that  
11 the United States has had, which I think has been a  
12 salutary one, of acting under multilateral negotiations,  
13 as in the GATT for example?

14 Ambassador Brock. Well, I think our priority remains  
15 multilateral trading system but, Senator, we have had a  
16 multilateral system that has slowed down and almost begun  
17 to retrogress in the last three years under the pressures  
18 of the global recession and the debt crisis.

19 And it seems to me that if the United States wants to  
20 motivate the system and have some leadership, it does have  
21 an opportunity to do so by example once in a while.

22 My hope is that a couple of good solid examples of  
23 the benefits of this liberalization in trade could be of  
24 enormous value in getting us to move the system back into  
25 a more positive direction again.

1 I do not see this as a fundamental aberration, but  
2 rather as an exercise of leadership to move this process  
3 back to a more positive conversation.

4 Senator Chafee. It seems to me that that is one way  
5 of looking at it. And another way of looking at it is that  
6 we are undermining the multilateral system by short  
7 circuiting it in the form of these bilateral negotiations  
8 with country A or country B or a group of countries as  
9 in the CBI.

10 And I have some concern about that.

11 My second question deals with this surplus of trade  
12 that we have with Israel that is pointed to as one of the  
13 reasons why it is to our advantage to go this direction.

14 Answer me this question: Is the surplus of trade  
15 in part as a result of the fact that we are supplying aid  
16 to Israel and thus they have to buy their products here  
17 anyway?

18 Ambassador Brock. No, sir.

19 Senator Chafee. That is not a factor in this equation?

20 Ambassador Brock. No, sir. When you take the trade  
21 surplus numbers that we provided to you of \$1.7 billion  
22 for us in our sales to them and \$1.250 billion their sales  
23 to us, that excludes any military items whatsoever. It is  
24 on an economic relationship.

25 Senator Chafee. But we do supply a good deal of

1 nonmilitary aid to Israel, and is there anything about that  
2 nonmilitary aid that requires that the purchases be made  
3 in the United States, thus contributing to the balance?  
4 Leave out the military.

5 Ambassador Brock. I think that, as far as I know,  
6 there is no tying of our aid dollars to U.S. purchases,  
7 and I don't believe that you all have authorized that, to  
8 be honest.

9 Senator Chafee. I do not know that it is a fact. I  
10 was asking you.

11 Ambassador Brock. No, I think it is true that they  
12 probably could buy less if we weren't providing aid, but  
13 I don't think there is any mandation for the purchase of  
14 U.S. products as a consequence of these programs.

15 Senator Chafee. Now, Mr. Chairman, do we have a bill  
16 before us? Are we working on a specific piece of  
17 legislation?

18 The Chairman. We are building one.

19 Senator Chafee. Well, what are we starting with?  
20 Do we have any blueprints?

21 The Chairman. We have the Administration's request,  
22 and then we have the Long amendment, and then we have other  
23 amendments.

24 And what we will do is report out any amendments that  
25 we might amend some pending legislation with.

1 Mr. Kassinger. Senator Chafee, we have the  
2 Administration proposal, which is described in prose in  
3 the material you have. And also, I believe, we do have a  
4 draft bill that I think may have been distributed. I am  
5 not sure.

6 It wouldn't be the final bill because we don't know  
7 what the Committee will approve.

8 Senator Chafee. As regards this so-called veto power  
9 that the Finance Committees have in the respective bodies,  
10 how is that affected by the Supreme Court decision?

11 Mr. Kassinger. Senator, I believe that it something  
12 that we will have to look further at, but I believe that  
13 the provision should be regarded as another exercise in  
14 the Congress's rulemaking power.

15 Section 151 expressly says that its procedures are  
16 laid out as an exercise of the Congress's ability to set  
17 its own rules, and it can be waived at any time.

18 This would just simply be another condition on the  
19 exercise of that rulemaking power.

20 And of course, as a practical matter, what the committee  
21 can refuse to do is consider any agreement that is sent up  
22 after it has voiced its disapproval.

23 Senator Chafee. I don't know how you get that from  
24 the legislative veto that the Supreme Court threw out.  
25 They said it was impermissible.



1 Mr. Kassinger. I believe the Congress has separate  
2 Constitutional authority to set its own rules of procedure,  
3 and this is simply a rule of Congressional procedure.

4 Senator Long. Could I respond to that for just a  
5 moment?

6 Senator Chafee. Yes.

7 Senator Long. The difference between this and a  
8 legislative veto -- a legislative veto you say that the  
9 President does certain things which would be effective  
10 unless Congress vetoes it. I think that that is what you  
11 are talking about there.

12 But here you are saying that we are imposing a  
13 procedure on ourselves. We are not imposing on the Executive  
14 -- we are imposing on ourselves.

15 We are saying that if someone else wants to benefit  
16 -- that Israel achieves in this case -- they will negotiate  
17 with the Administration. And then we will look at it.

18 And if we in the Congress think that we ought to  
19 pass the bill -- that it can have a fast track here --  
20 provided that the committees agree.

21 And so, basically, this is a procedure that we are  
22 imposing on ourselves, not on the Executive.

23 Senator Chafee. I see. Mr. Ambassador, as you know,  
24 right from the beginning, I have had concerns in connection  
25 with the jewelry industry, and Senator --

1 (Laughter)

2 Senator Chafee. Other Senators have concerns about  
3 this as well --

4 Senator Pryor. I have really made a mark with Senator  
5 Chafee.

6 (Laughter)

7 Senator Chafee. And to think he is a former Governor.  
8 How could I forget David Pryor's name?

9 (Laughter)

10 Senator Chafee. I just had too much time in El  
11 Salvador -- that is my problem.

12 And you said you thought you might be able to give us  
13 some assistance in this difficulty. I would like to hear  
14 those magic words again.

15 Ambassador Brock. Senator, as I said to Senator Pryor,  
16 what does trouble me is the possibility of a long, long  
17 laundry list of product exclusions. It is almost impossible  
18 to negotiate that way.

19 There is no sense in asking for the advice of an agency  
20 like the ITC if you don't intend to take their advice into  
21 consideration when you get it.

22 But this process moving as we have it now, we call in  
23 your industries -- the bromide industry -- for a specific  
24 reason. We want to find out how serious the problem is  
25 and what we can do to accommodate that problem.

1 We clearly are going to take those concerns into account  
2 as we negotiate.

3 Senator Chafee. Do I understand that the problems of  
4 Senator Pryor -- and that I have -- and I suppose others --  
5 are going to be presented to the ITC in some form?

6 Ambassador Brock. And to my office as well. We will  
7 hold hearings. We are presently holding hearings. We have  
8 had any number of people from these industries in our  
9 offices.

10 I have met with the bromine industry personally. And  
11 we will take those into serious account as we go into the  
12 specific product negotiations later on this summer.

13 We obviously, Senator, have no interest whatsoever in  
14 creating new hardships for American industry.

15 The purpose of this bill is to net an increased rate.  
16 It is not in any fashion to diminish our economic  
17 opportunities.

18 Senator Bradley. Excuse me. Would he repeat that last  
19 sentence?

20 Ambassador Brock. I am not sure I know which sentence  
21 you mean.

22 Senator Chafee. All right. Obviously, you have no  
23 concern about the ITC before your office?

24 Ambassador Brock. Basically, to rephrase it, I think  
25 I was trying to say that our objective is to increase trade,

1 not to diminish it. Not to diminish the opportunity for  
2 American firms to compete.

3 Clearly, the net objective of this bill has to be for  
4 a substantial increase in jobs, not a reduction.

5 Senator Chafee. Let me ask you this, Mr. Ambassador.  
6 This is looked on by your office and the Administration as  
7 quite a splendid idea -- what we are doing with Israel.  
8 If this is the way to proceed, why don't we do it with a  
9 lot more countries, if that is the way that unilateral  
10 as opposed to bilateral -- instead of the multilateral.

11 I am for the multilateral, but if you are going off  
12 on this new tack, where is this taking us to?

13 Ambassador Brock. I think, Senator, because we are  
14 aware of the exquisite perception and judgment and  
15 intelligence of the Senator from Rhode Island and we take  
16 his caution seriously, and therefore we move into these  
17 kinds of areas very cautiously.

18 Let us try this. Let's see how it works. We are doing  
19 two different things -- one with Israel and one with Canada  
20 -- two different approaches.

21 Let's see if either works or if both work. And then,  
22 if in fact the benefits are as great as I think they will  
23 be, as our economic indicators would suggest, then I think  
24 it is time for us to have a serious conversation about  
25 whether or not we want to do it in any other area.

1 But I don't think we should even begin such a  
2 conversation until we have tested the concept for just a  
3 bit.

4 And I think we have chosen a couple of pretty good  
5 examples.

6 Senator Chafee. Thank you. Thank you, Mr. Chairman.

7 The Chairman. I want to recognize Senator Mitchell,  
8 but I did want to point out that in the 1974 Trade Act,  
9 this committee encouraged negotiations of bilateral  
10 agreements in the national interest.

11 I assume this proposal is maybe informative of that  
12 request, or at least encouragement.

13 Ambassador Brock. I had that language to read back  
14 to the committee, but you have already jumped me, Mr.  
15 Chairman. I thank you for raising that issue. That is  
16 precisely the point.

17 The Chairman. Senator Mitchell and then Senator  
18 Danforth and then Senator Heinz.

19 Senator Mitchell. Thank you, Mr. Chairman.

20 Mr. Brock, as I understand the proposal, it consists  
21 of two parts. The first would have a new Section 102 which  
22 would create the authority for negotiating free trade area  
23 with Israel and a limited free trade area with Canada.

24 Then the second part would amend Section 124 to create  
25 authority to negotiate miscellaneous tariff agreements with

1 other nations, as yet unspecified because they are as yet  
2 unknown. Is that correct?

3 Ambassador Brock. That is correct.

4 Senator Mitchell. As you know, last year in enacting  
5 the Caribbean Basin issue, Congress expressly determined  
6 that there were certain import-sensitive domestic industries,  
7 as a consequence of which determination those industries  
8 were excluded from the Caribbean Basin initiative. Do you  
9 recall that?

10 Ambassador Brock. Yes, I do.

11 Senator Mitchell. Right. Now, setting aside for the  
12 moment Section 102 -- the Section 102 authority for  
13 negotiations with Israel and Canada -- and focusing if I  
14 might exclusively on the authority under Section 124.

15 Since we do not know with whom such negotiations will  
16 occur and we cannot yet foresee what circumstances they  
17 will occur under, what is your reaction to excluding from  
18 that authority those industries that have already been  
19 determined as recently as just a few months ago to be  
20 import-sensitive?

21 Now, I am now talking about those that were involved  
22 in the Caribbean Basin initiative.

23 Ambassador Brock. Basically, I am not sure that I  
24 could find any logical reason to disagree with that.

25 Senator Mitchell. All right. I thank you for that.

1           Now, going on to the Section 102 authority, which is  
2 of course in a different category and you and I have already  
3 discussed that privately, I would like to pursue that  
4 further.

5           What is your reaction to the exclusion with respect  
6 to the Section 102 authority that affects both the proposed  
7 negotiation with Israel and Canada?

8           Ambassador Brock. It doesn't make sense. In the  
9 instance of 124 authority, you are granting to the President  
10 a unilateral right to negotiate and to announce tariff  
11 reductions and changes in the tariff schedule.

12           We seek no such authority on a broad basis under the  
13 102. What we seek is the authority to come to you, get  
14 your permission to negotiate, and go the ITC and get an  
15 analysis within which we would negotiate, considering  
16 bromine and other industries like that, and then bring the  
17 final agreement back to you for passage so that there are  
18 at least three shots from different points of view at  
19 keeping this from impinging upon industries unfairly.

20           So, I think there is a substantial different logic  
21 to this particular approach, and that is why we would feel  
22 that such an exclusion would not be necessary here.

23           Senator Mitchell. Right. Let me then go one step  
24 further, Mr. Ambassador, and ask you to comment on another  
25 proposal -- one which I made to you yesterday.

1           And that is that, understanding the logic of what you  
2 said, and there is a good deal of logic in what you have  
3 just said -- although I do not necessarily agree with all  
4 of it -- if an agreement under Section 102 with Israel or  
5 Canada dealt with an industry that had already been  
6 determined by Congress to be import-sensitive as recently  
7 as last year, what would be wrong with -- in those cases  
8 only -- not proceeding on the so-called fast track and  
9 permit the ordinary legislative process to work its will  
10 -- to work its way -- so that those in import-sensitive  
11 industries, while not being excluded -- it would not be  
12 a product exclusion -- but you would have your full  
13 negotiating authority and not have the impediment which  
14 you described earlier that a series of product exclusions  
15 would give to you -- unless if you did act in an area that  
16 the Congress has already said is import-sensitive -- instead  
17 of having to proceed under the fast track procedure which,  
18 as you recognize, facilitates enactment -- that is the reason  
19 for its being suggested --

20           As you know, Mr. Ambassador, I am talking specifically  
21 now about textiles and apparel, on the one hand, and leather  
22 goods -- primarily shoes -- on the other, and they would  
23 have a chance -- Congress would have a chance to consider  
24 that fully and with careful scrutiny.

25           Ambassador Brock. It seems to me that any negotiator



1 going into a conversation with Israel on this particular case  
2 would not only be aware of but sensitive to those problems  
3 and would take it into consideration in the negotiations.

4 But to suggest that we have a biforcated approval  
5 process, I don't know -- that seems to me that it would  
6 put the Congress in the unholy position of having to approve  
7 only the negative components of the agreement.

8 I am not sure that that is healthy or logical in any  
9 negotiating conversation because if I were on the other  
10 side negotiating, I would say I can't depend on the USTR,  
11 if that was who I was negotiating with -- that a deal is  
12 a deal.

13 All of the things that are set aside in this special  
14 category may be subject to a totally different approval  
15 process in the Congress, and therefore that whole area  
16 of the agreement might be set aside. And I might be very  
17 uncomfortable about it.

18 Senator Mitchell. Well, of course, both the Governments  
19 and citizens of Israel and Canada understand the workings  
20 of the democratic systems because they are democracies on  
21 their own.

22 They also both understand that by law Congress has said  
23 that we have a biphorcated process -- the CBI follows that.  
24 There are certain areas that cannot be involved in the CBI  
25 because Congress has determined that they are import

1 sensitive.

2 It seems to me that this has the logic of consistency  
3 by saying -- and it is not a case of may, it is a case of  
4 will -- if the law says that -- that you have this  
5 negotiating authority. There are no product exclusions to  
6 impede your authority, but everybody knows in advance that  
7 if your agreement involves industries that the Congress  
8 has already declared to be import-sensitive, that they  
9 will be subject to full Congressional scrutiny and won't  
10 get this fast track procedure.

11 Ambassador Brock. You are subject to Congressional  
12 scrutiny either way. The question is do you set them aside  
13 as something that you would deal with in a negative fashion  
14 only, which means that you might as well not negotiate, or  
15 maybe you should have the Israelis come in and negotiate  
16 with the committee -- separately Ways and Means and Finance  
17 -- which would be modestly cumbersome.

18 Or you admit that when you bring it back that an  
19 agreement has to be considered in its whole, and if in fact  
20 the negotiators have done such an awful job as to place in  
21 jeopardy a major import-sensitive industry in the United  
22 States, reject the agreement.

23 Senator Mitchell. Well, I guess we look at the same  
24 facts and draw different conclusions. I would argue that  
25 what this would provide would be that you have an agreement,

1 and where you deal with industries that have not been  
2 determined by the Congress to be import-sensitive, you will  
3 then be authorized to proceed on a fast track basis.

4 The obvious and stated purpose of which is to facilitate  
5 approval by the Congress. But when you deal with industries  
6 that have already been determined, and recently so by the  
7 Congress, to be import-sensitive, they will be subjected to  
8 a somewhat more careful scrutiny.

9 I think if you state it that way, it makes a great  
10 deal of sense and has some consistency to our previous  
11 action.

12 Ambassador Brock. Senator, I have a great deal of  
13 respect for you, but I don't care how you state it, you  
14 are still screwing around with the agreement and keeping  
15 it from passing because you can't approve a part of an  
16 agreement.

17 It is either going to be approved or not. That is  
18 the whole logic of the 102 fast track thing. Either it  
19 is logical in its whole context or it is not. And you  
20 enormously increase the uncertainty for your trading partner  
21 and certainly the U.S. industry by saying part of it is  
22 subject to a totally different legislative process.

23 Now, I am sympathetic to what you are saying, but I  
24 really -- in all honesty -- I don't think that we are going  
25 to have a problem because I can't imagine not taking into

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account the sensitive categories.

That is what a negotiation is all about. It is to be sure that you take those concerns into consideration, and try to accommodate them.

(Continued on next page)

1 Senator Mitchell. I think you misunderstood my proposal  
2 slightly, not that it would change my main point.

3 Ambassador Brock. I think so.

4 Senator Mitchell. I do not suggest that an agreement be  
5 divided into parts. What I suggested was that any agreement  
6 which includes provisions dealing with the reduction of  
7 tariffs in industries that have already been deemed to be  
8 input-sensitive, that the entire agreement, then, be removed  
9 from the fast-track procedure.

10 Ambassador Brock. I did misunderstand you. I apologize.

11 Senator Mitchell. But if an agreement did not include  
12 any such provision, and it is very easy to reference them by  
13 simply referring to the CBI because Congress has already  
14 made that determination, then that would proceed on the  
15 expedited procedure.

16 Ambassador Brock. Well now, Senator, I already have  
17 that authority. So what you are telling me is that you don't  
18 mind me, without any change in law and without any action  
19 of this committee, you don't mind me going off and  
20 negotiating with Canada and Israel and bringing you back  
21 something. If that is what you are saying, we don't have to  
22 worry about any more of this.

23 Senator Mitchell. No, that isn't what I am saying.

24 If you have that authority and felt that you were going  
25 to succeed without it, I don't know that you would be up here

1 asking for this authority now.

2 Ambassador Brock. Oh, no. I think that I am jointly  
3 responsible to you and the President of the United States.  
4 I think I am unique in government, in my role and  
5 responsibility to you. So I am here because I think I am  
6 supposed to coordinate with you and because I think we ought  
7 to consult on these issues.

8 Senator Mitchell. I think that is a very good  
9 attitude.

10 I commend you for what you are doing, and I am generally  
11 in support of what you are doing, as you know. But as you  
12 are also aware, we have industries that are being  
13 devastated by imports and that are extremely uneasy about  
14 anything that might contribute to their problems.

15 Ambassador Brock. I really do understand. Particularly,  
16 you know, you have a very sensitive footwear industry in your  
17 state that is significant in your employment pattern.

18 But I would point out that in that particular case, for  
19 example, Israeli footwear sales in the United States are less  
20 than one-one hundredth of one percent of U.S. imports. Even  
21 there, if there is the possibility of threat, that's exactly  
22 what we want to hear about. That's exactly why we hold the  
23 hearings and invite your industries to come in and tell us  
24 what the problems would be, so that we can take those  
25 concerns into account.

1 Senator Mitchell. Well, I don't dispute the figures  
2 that you have used, but of course that is not the real  
3 concern. The real concern is the potential for increase  
4 under a free trade agreement, and that is a matter of real  
5 concern.

6 Ambassador Brock. I understand.

7 Senator Mitchell. In addition to textiles, there is a  
8 real concern about the problems of transshipment that would  
9 require very tight provisions in the agreement, and I know  
10 you are aware of that and will deal with that very  
11 diligently.

12 I thank you, Mr. Chairman, and I thank you,  
13 Mr. Ambassador.

14 The Chairman. Thank you, Senator Mitchell.

15 I suggest that we recognize Senator Danforth,  
16 Senator Heinz, and then Senator Pryor. I would like to  
17 sort of get some consensus as to whether we can put this  
18 package together this morning. I have a number of proxies  
19 that would indicate we can, if there is some willingness on  
20 your part to eliminate section 124.

21 Senator Danforth?

22 Senator Danforth. Mr. Chairman, first I would like to  
23 make a comment really based on Senator Mitchell's proposal  
24 as I understand it.

25 The fast-track procedures in the law have been in the

1 law since -- when? -- 1974? And they have in fact been  
2 tried. They are not an untried entity. It is not something  
3 that is in the dark. We went through the Multilateral  
4 Trade Negotiations in 1979 and used the fast-track procedure  
5 at that time. And I think it is fair to say that, but for  
6 the fast-track procedure we would have given up, we would  
7 not have had a bill, and we would not have had a successful  
8 Tokyo Round.

9 Now, I for one would be very hesitant about a procedural  
10 change in the existing system. I would be very bothered by  
11 something which would indicate a kind of quasi-fast-track,  
12 semi-fast-track, or that some things would be on a fast  
13 track and others would not. I think that that would be  
14 tinkering with the existing system.

15 During the Tokyo Rounds, there was a considerable input  
16 on the part of the private sector advisory committees, and  
17 there were a number of them. Throughout the period of  
18 negotiations they had access to the details of the  
19 negotiations; they had input with the Trade Representative  
20 and also had access to the Congress.

21 So the first question that I would ask is: Are private  
22 sector advisory committees still in place? And if they are,  
23 would they be consulted during the process of the trade  
24 negotiations? And would they also be able to express their  
25 views during the conduct of any negotiations? Would they be



1 able to express those views to Congress?

2 Ambassador Brock. Absolutely.

3 Senator Danforth. And, in other words, textiles,  
4 shoes, anyone else, jewelry, anybody who could conceivably  
5 have a concern with any agreement that was being negotiated  
6 with Israel or Canada would have systematic access not only  
7 to the USTR but to the Congress, and would have access to the  
8 confidential information that would be at your disposal. Is  
9 that correct?

10 Ambassador Brock. Absolutely; we constantly seek that  
11 kind of advice, and we will do it throughout the negotiating  
12 process, daily.

13 Senator Danforth. So you would not be springing  
14 something on the shoe industry, or springing something on  
15 the textile industry; they would be, in effect, part of the  
16 negotiation right from the beginning?

17 Ambassador Brock. Absolutely.

18 Senator Danforth. Now, again referring back to 1979,  
19 when then-Ambassador Strauss had concluded an agreement, and  
20 he came back to Congress during this period of time of 60  
21 days before submitting the final agreement to us, the final  
22 bill to us, and during that process we had what amounted to a  
23 mark-up in the Finance Committee. As a matter of fact, it  
24 was a very detailed -- very detailed -- mark-up of the  
25 proposed agreement. Would that process again occur with

1 respect to any fast-track arrangement with Canada or  
2 with Israel?

3 Ambassador Brock. Yes, it would.

4 Senator Danforth. And during the period of the mark-up,  
5 if the Finance Committee or if the Ways and Means Committee  
6 had a serious problem with some ingredient in the proposed  
7 arrangement, then you would be able to go back to Canada  
8 or to Israel and say, "Look, we just can't sell this portion  
9 of the agreement; therefore, we are going to have to change  
10 it." That was in fact what was done in 1979.

11 Ambassador Brock. You are precisely right.

12 Senator Danforth. So the idea to give negotiating  
13 authority to the Administration precludes us from in effect  
14 changing what is going to happen in the future. That is just  
15 an erroneous statement, isn't it?

16 Ambassador Brock. It certainly is. And I think you  
17 know that I make a great effort to work with this committee.  
18 I think you can have that absolute assurance.

19 But I think that would apply to any USTR, because if  
20 you don't do that, it won't work.

21 Senator Danforth. That is correct. But all I wanted to  
22 do is to point out that we are not unleashing or sort of  
23 springing a genie from the bottle by giving this kind of  
24 authority, then. In effect, there is constant, continuing  
25 input on behalf of affected industries and their unions.

1 Isn't that correct?

2 Ambassador Brock. Absolutely.

3 Senator Danforth. And in addition to that, Congress  
4 can in effect rewrite the agreement, once it comes back  
5 to us.

6 Now, let me ask you another question, Mr. Ambassador.

7 We have a great relationship with Canada. It is as  
8 important ally as we have in our country and as friendly  
9 a relationship as we have, and it is a very important  
10 relationship.

11 It is clear, however, that in the trade area we do have  
12 some problems with Canada. And some of those problems are  
13 non-tariff problems; for example, the truck-licensing  
14 problem, the Canadian broadcasting, tax situation,  
15 restrictions by Canada on U.S. investments, problems that  
16 we have had with intellectual property rights, patent  
17 protection, and so on. None of these are tariff issues;  
18 all of them are very serious trade issues.

19 If the Administration enters into negotiations with  
20 Canada relating to tariff agreements, would there be  
21 anything that would preclude during those negotiations  
22 discussions of non-tariff problems that we have with  
23 Canada?

24 Ambassador Brock. Nothing whatsoever. I think the hope  
25 would be that we are cementing a much broader and more

1 deeply-rooted relationship, which means that we would have  
2 to consider all of those problems which affect our ability  
3 to do business with one another. The total trade area  
4 would be covered as comprehensively as we could over a  
5 period of time. It will not come easy, but it will come.

6 Senator Danforth. My hope would be that we would  
7 see not simply tariff negotiations with Canada, but that we  
8 would also see very hard negotiations with respect to truck  
9 licensing and investments and broadcasting, and so on. That  
10 would be, in effect, part of the package; although, in  
11 reality all you would be doing would be negotiating tariffs.

12 Ambassador Brock. I think, Senator, the fact that we  
13 start off by seeking three or four sectors where we know  
14 we have the capacity for quick progress, that will  
15 demonstrate the kind of good faith on both sides that allows  
16 you to make progress in other more contentious areas.

17 We have told Canada that we would like to look at the  
18 totality of our relationship. They have similar concerns  
19 with us. This is not something that is one way, you know.  
20 They have very real concerns with U.S. practices. Some of  
21 our "Buy U.S." policies in the States are just as adverse  
22 to them as their "Buy Canadian" policies in the Provinces.  
23 You know, those are things that are not easy to solve, but  
24 we are going to consider anything we can do to improve our  
25 trade, and that covers all of the above.

1 Senator Danforth. Well, clearly it is an important  
2 relationship, and as I recall the numbers, our trade balance  
3 with Canada has moved from a balance to about a \$13 billion  
4 trade deficit with Canada in a very short period of time.

5 We do have some complaints as to how Canada is operating,  
6 and because of the importance of that relationship I think  
7 it is important to give you tariff-cutting authority with  
8 Canada in order to provide a foot in the door, which I hope  
9 would yield some significant progress in dealing with that  
10 country.

11 Ambassador Brock. So do I, Senator. I appreciate that.

12 Senator Heinz. I am advised by the Chairman that, were  
13 he present, he would recognize me, and then Senator Pryor.

14 Bill, to come back a moment to the question that  
15 George Mitchell raised and also that Senator Pryor raised,  
16 you say that you don't want to clutter up the legislation  
17 with product exemptions, be they on bromine or footwear, or  
18 so forth. And you have said that you will pay special  
19 attention to findings of import sensitivity by the  
20 International Trade Commission.

21 Ambassador Brock. And members of the committee.

22 Senator Heinz. And members of the committee.

23 On the first point, I would only point out that the  
24 membership of that commission is in the process of changing  
25 radically, and we do not know exactly how sensitive the new

1 membership of that commission, frankly, is going to be to  
2 import problems. It is supposed to be even-handed, but I  
3 must tell you, frankly, that I am not entirely sure that  
4 some of the new members on that commission -- I have one in  
5 mind in particular -- is necessarily open-minded on those  
6 questions. But then, I suppose some would say there are  
7 people on the other side that aren't open-minded either;  
8 I don't know.

9 As you know, we have a list of product categories in  
10 CBI. And with the Caribbean Basin Initiative, our purpose  
11 was to give assistance, in effect, to an area that really  
12 needs it -- very poor Caribbean Basin countries.

13 What is the rationale, since Israel is not poor, it is  
14 not a banana republic, it is not a struggling emerging  
15 nation, it is not faced with a teetering-tottering between  
16 marxism and socialism and a free Western-kind of economic  
17 system, what is the rationale for conforming what we  
18 are doing here to the CBI, given the fact that the CBI is  
19 really aimed at helping much poorer countries?

20 Ambassador Brock. The difference is in the whole  
21 process. With the CBI you are dealing with 27-28 countries  
22 who collectively over a period of this 12 years that the  
23 program was in implementation could acquire, through just its  
24 population base, a very substantial capacity to impact on  
25 U.S. markets.

1           As you know, Senator, we came to you and asked you for  
2 a CBI without any exclusions, and the Senate in its wisdom  
3 felt that that was not the best way to go. So we obviously  
4 accepted the wisdom of the Senate.

5           But in this particular case, I think there is a  
6 substantial difference in the way the process is put together.  
7 As I told Senator Mitchell, with one you gave a unilateral  
8 grant of authority, which then extended the Administration's  
9 ability to move into bilateral agreements immediately. In  
10 this particular case there is a much more careful and direct  
11 Congressional participation and involvement. As Senator  
12 Danforth has noted in his comments, we seek the advice of  
13 the industries not just for the ITC but for those of us  
14 who are doing the negotiating. We seek the advice of those  
15 members of this committee who have concerned -- the Senator  
16 from Arkansas and others. And we will take that advice  
17 into consideration as we negotiate. We will bring the  
18 agreement back to you before -- before -- it is put on the  
19 fast-track, as Senator Danforth knows, for you to take a  
20 serious look at it. We will go through it, line-item, with  
21 you.

22           Senator Heinz. Bill, I certainly concede there is a  
23 very big difference between dealing with a couple of dozen  
24 Caribbean countries and dealing here, one-on-one, with  
25 specific negotiating objectives. All true.

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1 I don't know, though, that that is really the answer  
2 to the substance of the question, which is, if these are  
3 import-sensitive categories, why shouldn't they be treated,  
4 with respect to Israel and Canada, the same as they are  
5 treated for Trinidad and Tobago, and Jamaica, and so forth?  
6 I understand the procedural difference, but substantively  
7 is there any difference between an import from Canada or  
8 Israel in one of these sensitive categories than an import  
9 from the Caribbean Basin?

10 Ambassador Brock. No. Substantively, of course, there  
11 is not. The difference is in the negotiating process, the  
12 opportunity for input from industry and from the Senate to  
13 accommodate those concerns in the negotiation itself.

14 Senator Heinz. Well, I don't know where I am going to  
15 come out on this if it comes to a question of a vote, but I  
16 will say this: I have always found your word to be really  
17 good. And when you say you will consult with us, I have  
18 always known you to consult. When you say that you will be  
19 sensitive to the concerns of the Senate, I have always known  
20 you to be sensitive. When you say that you will talk to  
21 industry, I know that you will talk to industry. I just want  
22 that to be clear and on the record.

23 Ambassador Brock. Thank you, Senator.

24 Senator Heinz. Let me say, with respect to section 124,  
25 I am prepared to offer an amendment to eliminate section 124



1 from this, in the interests of moving ahead, because I don't  
2 object in principle to what you want to do with Canada and  
3 Israel. And at the appropriate time, if it is needed, I will  
4 do that.

5 The third thing that I want to bring up really relates  
6 to our opportunity to do two things that I think need to be  
7 done and that I understand the Administration supports. Let  
8 me tell you what the first one is.

9 One of the countries that you want to negotiate with is  
10 Canada, and we have had some unique problems with Canada  
11 which our existing countervailing duty law has had a tough  
12 time handling -- I am thinking of some of the export subsidies  
13 that their financing institutions have engaged in. You  
14 remember the bombardier case, I know.

15 It is my understanding that the Administration supports,  
16 and has testified to this effect, an amendment amending the  
17 Countervailing Duty Act to make clear that investigations  
18 can be undertaken when there are present sales for future  
19 delivery but no present imports, or in circumstances  
20 involving leases which are in fact equivalent to sales. The  
21 provision would not determine the outcome of such an  
22 investigation, only that an investigation would be possible  
23 in these circumstances.

24 The language is really identical to that in section 101  
25 and H.R. 4784, which was in the Ways and Means Committee.

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1           It is my understanding that you or the Administration  
2 testified that not only do you support that language but  
3 that one of the reasons you want that is to ensure that a  
4 court could not hold such a proceeding, it could not be  
5 initiated, until importation began.

6           Since we are dealing with Canada here, and since  
7 negotiations are by their nature giving up something to get  
8 something, I just want to be sure that I can go to my  
9 constituents and say, "Well, we have protected you within  
10 the context of our existing law better than we are now,"  
11 without pointing a finger at a specific case or creating a  
12 laundry list.

13           Would you have any objection to our incorporating this  
14 amendment with this legislation?

15           Ambassador Brock. Probably not. I would have preferred  
16 another vehicle for it, but obviously we are supporting it  
17 and we would like to see it in law, if it doesn't  
18 jeopardize the legislation.

19           Senator Heinz. I would hope we could do that, because  
20 it is pretty relevant to Canada.

21           Senator Long. Could I ask what that amendment is? I am  
22 not quite sure.

23           Senator Heinz. I have referenced it. It is an amendment  
24 to section 101(a) (1, 2) and (b). What is the easiest way  
25 to do this to get it to staff?

1 Senator Chafee. Why don't you tell us what the  
2 amendment does.

3 Senator Heinz. All right, I will repeat what the  
4 amendment does, Mr. Chairman.

5 What it does is, it clarifies that countervailing  
6 duty investigations can be undertaken when there are present  
7 sales for future deliveries; that is to say, there are no  
8 present imports, but there is a contract for sales. The  
9 importation has not occurred, but the deal is being made, or  
10 in circumstances that involve leases which are in fact  
11 equivalent to sales.

12 This all grows out of the countervailing duty  
13 investigation of rail cars from Canada, better known to  
14 Senator Moynihan as the famous "Bombadier Case," or in  
15 Pennsylvania as the Budd Company frustration.

16 The problem was that there is the fear on the part of  
17 the Administration that a court can say "absent the arrival  
18 of the goods, there is no injury, but clearly a contract  
19 or a phoney lease is the equivalent to the sale; you can't  
20 invalidate a contract once it has been made." And this is  
21 simply to lock the door legally so that the intent of  
22 Congress is followed through. And it just so happens that  
23 Canada has been an offender in this area.

24 Senator Long. Well, that appeals to me. I am concerned  
25 about situations where the injury test becomes a part of the

1 picture, whereby the industries claim generally that by the  
2 time they are able to satisfy the ITC and others that the  
3 injur has occurred, they are out of business -- they are  
4 gone. So that the sooner you can act on a countervailing  
5 situation, the better off you are.

6 Ambassador Brock. What Senator Heinz is trying to do,  
7 Senator, is to strengthen our capacity to investigate that  
8 precise kind of circumstance so that we can act before the  
9 damage is already done, before the horse is out of the  
10 barn.

11 The Chairman. Without objection, we agree to that  
12 amendment. Did we agree to that amendment?

13 Senator Heinz. Yes, Mr. Chairman.

14 The Chairman. And the earlier amendment of Senator Long  
15 has.

16 Senator Heinz. Mr. Chairman, I have a related  
17 amendment, which is this:

18 When we wrote in this committee the statutory criteria  
19 for ITC determinations of injury, we were somewhat vague  
20 about what constituted "threat of injury." And over the last  
21 several years the ITC has developed a set of criteria to  
22 determine threat of material injury, and they are good, but  
23 they are not in the statute and they can change.

24 What I would propose is this: That we statutize the  
25 criteria, which includes increases in production capacity in

1 the exporting country, a rapid increase in U.S. market  
2 penetration, price suppression or a substantial increase  
3 in inventories.

4 The amendment provides that determinations may not be  
5 made on the basis of supposition or conjecture. The amendment  
6 requires that sufficient information exist for concluding  
7 that the threat of injury is real and that the actual  
8 injury is imminent.

9 Again, this is language that appears in section 104(a)(2)  
10 (c) of H.R. 4748, as reported by Ways and Means. It is  
11 my understanding that both you and Secretary Baldrige have  
12 endorsed this specific provision. And one of the things  
13 that you know we continually face is how do we deal with  
14 a large wave before it breaks upon us and engulfs us.

15 Let me ask Ambassador Brock if he agrees with this as  
16 well.

17 Ambassador Brock. We have supported this, Mr. Chairman  
18 Both I think the Commerce Department and we have testified  
19 in favor of it, because it fundamentally is a codification  
20 of existing procedures; but it puts it into law instead of  
21 just the administrative practice.

22 Senator Chafee. Mr. Chairman, I think we are on  
23 dangerous grounds here. What we are doing is, Senator Heinz  
24 is presenting a series of very, very complicated measures to  
25 amend this bill that we have had no hearings on, that we

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1 know nothing about, that no one understands them.

2       The STR has said he supports them. Under what pressure  
3 he supports them, I don't know, but I just don't like this  
4 procedure. We came here to deal with a bill concerning  
5 Israel and those matters, and suddenly, out of the blue, are  
6 coming some very complex amendments. The last one sounded  
7 fine; of course, no one spoke on the other side, so we don't  
8 know what's in it. I just don't like this way of proceeding.

9       If we are going to start from scratch and review all  
10 of the trade legislation, well, we are going to be here for  
11 a long, long time. And out of the blue come these amendments  
12 which we have never seen before, which we know nothing about,  
13 which are explained to us all in less than five minutes with  
14 nobody speaking on the other side. I just don't like this  
15 procedure.

16       Senator Heinz. If the Senator will yield, it is not  
17 my intention to offer a laundry list of amendments. I have  
18 offered two, and those are the only two I intend to offer.  
19 And I offer them because I think it will make it easier  
20 to pass this legislation in committee and on the floor.  
21 These amendments have been published in various fora for  
22 months, maybe over a year. I apologize to the Senator for  
23 not having given him advanced copies of them. I didn't know  
24 that the section 124 authority was going to be in this  
25 draft bill until about 5:00 last night. And frankly, we

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1 haven't seen until just today a text of anything. And I  
2 am concerned as much as the Senator is about hearings and  
3 all that kind of thing, but to say that the two amendments  
4 I have offered are complicated, to say that they are obscure,  
5 to say that no hearings have been held on them by the  
6 Congress generally, by committees of the Congress, I would  
7 have to disagree with.

8 Senator Chafee. Well, maybe there have been hearings  
9 in the House, and I am not disputing that -- as I understand  
10 there were some complicated lengthy hearings in the House  
11 on this matter but what good does that do us, to know that  
12 there are hearings in the House and that they accepted them.  
13 Sure, a lot of things have happened in the House.

14 Look. Maybe they are great amendments; I don't know.  
15 But what are we doing here? Are we going to revise the  
16 trade laws of the country in a mark-up on a bill dealing  
17 with Israel? Or are we going to take those at a separate  
18 time?

19 I think the Ambassador said that he would like to see  
20 these on other legislation; I think he said that in response  
21 to the first amendment. Maybe so. But it is the procedure,  
22 Mr. Chairman, that I find problems with.

23 Senator Bradley. Mr. Chairman, if I could follow on  
24 to what Senator Chafee said. If we are here simply to deal  
25 with the Israeli issue, I think that that is what we should

1 deal with. But we have indeed broadened this to add  
2 section 124 and then throw Canada into the pot on the free  
3 trade area.

4 The Chairman. No, that was in the pot.

5 Senator Bradley. Well, I thought the initial hearing  
6 that we had was on the Israeli free trade area. I am not  
7 saying that maybe we shouldn't look at Canada, but I also  
8 know that there are a lot of other things out there that are  
9 happening in Canada that are not too helpful to us.

10 I think that the USTR knows that Canada has basically  
11 said "No more exports of uranium to the United States." That  
12 is not a very helpful policy, and here we are talking about a  
13 free trade area with Canada, and on the one hand they want  
14 that, and on the other hand they are saying, "Sorry, no more  
15 exports of uranium." You know, we get a big chunk of the  
16 uranium that is used in this country from Canada.

17 So I think that, you know, this has never been explored  
18 in a hearing. We have never looked at this issue and  
19 addressed the whole range of other possible things that  
20 Canada could be doing in the back door while in the front  
21 door they are asking for a free trade area.

22 Senator Heinz. Mr. Chairman, just to follow-on with the  
23 last two speakers briefly, and I will be brief, if the  
24 legislation before us -- I would say this to John Chafee --  
25 only dealt, and let's assume that we do get rid of 124, for



1 the purposes of this discussion, John, it would not only deal  
2 with Canada and Israel. It does name Canada and Israel, but  
3 part of the package is Senator Long's amendment, as I  
4 understand it, which provides a new door for other countries  
5 to come in, to fast-track approved negotiations. So while  
6 only two countries are named, many can come in under this.

7 I just wanted to point that out. It is no longer  
8 as specific as it was originally. I think we have adopted or  
9 are going to adopt Senator Long's amendment.

10 Senator Long. But do you understand what the purpose  
11 of my amendment is? The purpose of my amendment is just to  
12 keep from having a whole bunch of countries come in here and  
13 say they are entitled to the same treatment under the  
14 most-favored-nation treaties that are already out there.

15 Senator Heinz. You have a procedure for allowing them  
16 to knock on the door, as I undrestand it.

17 Senator Long. But the reason that we provide the  
18 procedure is because if we don't do what my amendment would  
19 provide, a lot of these countries will be in the position to  
20 come in here and say that they are entitled to the same  
21 benefits as Israel.

22 Senator Heinz. I understand that that is one of the  
23 purposes of the Senator's amendment, and it is a very  
24 important purpose. That is not the only effect of his  
25 amendment, but it probably is the most important purpose.

1 Senator Long. Well, please understand, as far as the  
2 fast-track proposal, that other countries might conceivably  
3 gain some benefit from, we are making that available in order  
4 to have what I want here, to say that this doesn't trigger  
5 those most-favored-nation provisions in all of these old  
6 treaties that we have around the world.

7 Senator Heinz. I support the Senator.

8 The Chairman. We have adopted that amendment, without  
9 objection.

10 Well, I would like to get some consensus here now. I  
11 think we are pretty well prepared to make a decision. There  
12 may be specific amendments to be offered on exemptions or  
13 exceptions, or whatever; but with reference to the two-part  
14 proposal of the Administration, as I understand it,  
15 Ambassador Brock, the first would be the authority to  
16 negotiate free trade areas with Canada and Israel only, and  
17 any such agreement would be required to have subsequent  
18 Congressional consideration and approval under the fast-track  
19 procedures, subject to the additional amendment for any other  
20 countries offered by Senator Long.

21 Then the second portion, which has caused some concern --  
22 Senator Bradley, Senator Heinz, and others -- would be to  
23 renew the authority, which is 124 authority as I understand  
24 it, to negotiate tariff agreements with other countries.

25 Ambassador Brock. That is correct.

1           The Chairman. I think there would properly be complaints  
2 if we hadn't focused on that, and I am wondering if that  
3 is critical to adoption of the first portion of the  
4 Administration's proposal.

5           Ambassador Brock. Senator, if there is real concern --  
6 my thought was that we had discussed 124 at length over the  
7 last couple of years. But if there is a desire to explore  
8 it further, then obviously we would accept the wisdom of  
9 the committee.

10          The Chairman. Well, it would be my purpose that, if we  
11 could eliminate that from the consideration of the first  
12 portion of your proposal, we could go ahead and have  
13 hearings on that, satisfy the concerns expressed by two  
14 Senators publicly and a couple privately to me. And I  
15 think I would suggest that process.

16          So if there is no objection, we could eliminate the  
17 second portion of the Administration's proposal. And if we  
18 could adopt the first provision, then if there are specific  
19 amendments, I think Senator Pryor would like to offer an  
20 amendment, and I am not certain about Senator Mitchell.

21          We have adopted the Long amendment and one Heinz  
22 amendment. Is there any objection to adopting the  
23 first part of the Administration's proposal, which would be  
24 the authority to negotiate free-trade areas with Canada and  
25 Israel only?

1           Senator Heinz. Mr. Chairman, have you adopted one or  
2 two of my amendments? I offered one, and it was adopted,  
3 and in talking about the second I thought you said it was  
4 adopted.

5           The Chairman. No, I didn't get quite that far.

6           (Laughter)

7           The Chairman. I was prepared to do that, but my  
8 judgment told me to withhold on that.

9           (Laughter)

10          Senator Heinz. It is best not to have Senator Chafee  
11 stirred up here.

12          Senator Chafee. Well, I think everything has been said,  
13 and there is no point in repeating it.

14          The Chairman. But is there any objection to make sure  
15 we have that, subject to amendment?

16          Senator Mitchell. Mr. Chairman, may I just make one  
17 inquiry of Mr. Brock about that aspect before we do it, and  
18 then discuss perhaps what I think is a noncontroversial  
19 amendment?

20          The Chairman. Yes.

21          Senator Mitchell. Mr. Brock, I understand that  
22 regarding the negotiations with Canada you only intend to  
23 cover sectors that seek lower duty.

24          As you know, there are many businesses in the Northeast,  
25 particularly in my own State of Maine, where we have

1 complaints about Canadian imports. I am speaking specifically  
2 now about potatoes, fish, and lumber. Am I correct in  
3 assuming that you do not plan to negotiate lower tariffs  
4 in these sectors and that the Canadians have not indicated  
5 the desire to cover these sectors either?

6 Ambassador Brock. That is correct.

7 Senator Mitchell. All right.

8 Secondly, Mr. Brock, as you know, I have discussed with  
9 you the possibility of adding to this an amendment which is  
10 contained in legislation that I have introduced, authorizing  
11 the President to negotiate with Canada in the creation of an  
12 International Joint Economic Commission, to serve as a  
13 method of resolving the many and growing economic disputes  
14 we have with Canada. This would do nothing other than to  
15 create that authority. Do you have any objection to that  
16 being added as a part of this authority with Canada?

17 Ambassador Brock. No.

18 Senator Mitchell. Mr. Chairman, I would like to move  
19 the adoption of that.

20 The Chairman. I am sorry, I was distracted; but whatever  
21 it is will be adopted.

22 (Laughter)

23 Senator Mitchell. It creates the authority for the  
24 President to negotiate with Canada should he so choose to in

25

1 the creation of an International Joint Economic Commission.  
2 which, patterned after the International Joint Commission,  
3 would serve as a medium for resolving economic disputes with  
4 Canada.

5 Ambassador Brock. As I understand it, the Senator is  
6 suggesting only that we be authorized to consider it, not  
7 that we be mandated to do it.

8 Senator Mitchell. That is correct. That's right. It  
9 would not require it; it would create the authority for you  
10 to do so but would not require it. And I hope the next step  
11 is to persuade you to do so.

12 Ambassador Brock. Thank you.

13 The Chairman. All right. I wonder if we then might  
14 agree either to vote on the Administration proposal subject  
15 to amendment, because I know Senator Pryor has a specific  
16 amendment.

17 Senator Bradley. I will probably have an amendment, too.

18 The Chairman. Do you want a record vote, or do you want  
19 to adopt the provision?

20 Senator Bradley. Do you mean adopt the provision on  
21 general free trade?

22 The Chairman. The authority to negotiate free trade  
23 areas with Canada and Israel only. Does anyone need a record  
24 vote?

25 (No response)

1           The Chairman. Then, without objection, we will agree  
2 to that. And I will yield to Senator Pryor for a specific  
3 amendment.

4           Senator Pryor. Mr. Chairman, I would like to ask the  
5 Ambassador two or three quick questions, and I won't belabor  
6 this.

7           Mr. Ambassador, you stated earlier that you would give  
8 careful consideration to the issue of bromines and all of  
9 these other concerns that we have expressed this morning.

10           How much consideration would the Ambassador in these  
11 negotiations and the Administration give to the potential  
12 loss of 1250 American jobs?

13           Ambassador Brock. A great deal of consideration.  
14 Obviously that would be of substantial concern to me.

15           Senator Pryor. How much consideration would the  
16 Ambassador and the Administration give to the fact that an  
17 increase in the unemployment rate in a section of one's  
18 State would be increased by 3 percent if we created the  
19 duty-free zone with Israel relative to bromine? How much  
20 consideration would be given?

21           Ambassador Brock. I think the same answer, Senator.  
22 It is not our goal to increase unemployment, even in a part of  
23 a small State.

24           Senator Pryor. How much consideration would be given  
25 if the Ambassador were aware of the fact -- and I assume that

1 he is -- that the United States bromine industry today is  
2 operating at a 60-percent capacity, while the Israel bromine  
3 industry is operating at a 90-percent capacity?

4 Ambassador Brock. That is precisely the kind of thing  
5 we do take into consideration and we will take into  
6 consideration.

7 Senator Pryor. Well, finally, given these facts and  
8 figures and your sensitivity and consideration that you  
9 promised to give, why is it that we are even considering  
10 any sort of a negotiated agreement for the duty-free zone  
11 for bromine for Israel?

12 Ambassador Brock. Senator, we haven't made that  
13 decision.

14 Senator Pryor. But you are asking for the authority.  
15 Why would you even consider such an authority for this  
16 particular project?

17 Ambassador. We are asking for a general authority. //  
18 Once we receive the general authority, then we will meet  
19 with the industry, with the members of this committee, and  
20 have our ITC hearings to determine those categories which  
21 are too sensitive to leave out of any final negotiations.  
22 In other words, we will take these things into consideration.

23 Senator Pryor. Well, when you come back and after these  
24 negotiations are finished and complete, the Senate is going  
25 to be faced basically not just with a proposal, but we are



1 going to be faced with a negotiated treaty which is  
2 unamendable on the Senate floor. Is this not correct?

3 Ambassador Brock. In a technical sense, Senator. But  
4 if you remember the history of the MTN Round that Senator  
5 Danforth mentioned, my predecessor came back and sat with  
6 this committee and went with a fine-toothed comb through  
7 the agreement, and took the advice of this committee in a  
8 number of areas.

9 Senator Pryor. Mr. Chairman, I am ready to offer my  
10 amendment. I would like to state that we have talked a great  
11 deal about fast-tracking today, and I think we are in the  
12 first phase of the fast-tracking. We were given notice  
13 yesterday of this hearing. In fact, we did not even have  
14 sufficient notice for me to apprise my colleagues and tell  
15 them about this particular issue.

16 Finally, I think we are awaiting a report on May 30th  
17 from the National Trade Commission on the issue of a duty-free  
18 zone with Israel. So I don't know why we have to work it  
19 this time and preclude or basically preempt that report  
20 that the ITC will give us by May 30th.

21 And, Mr. Chairman, I really must say that I strongly  
22 object to the procedural aspects of the way we are dealing  
23 with this issue, because if this treaty comes back from the  
24 Senate floor, and if there are concerns in here that any  
25 member of this committee or any member of the Senate doesn't

1 like, we are going to be faced with awesome and almost  
2 unsurmountable obstacles in dealing with it. And I think  
3 what we are doing here is a very curious procedure. As well  
4 as registering my objection, I would like to submit my  
5 amendment.

6 The Chairman. I would just say in response that I  
7 share some of the concerns expressed by the Senator from  
8 Arkansas, but I think I think Senator Danforth earlier and  
9 the response he had from the Ambassador should ease our  
10 concerns. After all, there is this joint responsibility.  
11 The USTR was carefully crafted by my predecessor and others  
12 who wanted the USTR to be responsive to this committee. It  
13 is not an Administration's responsibility solely, and I  
14 think that is the way Bill Brock and all the predecessors  
15 have viewed it. I think I am correct. So it is not an  
16 adversary relationship. I hope it is totally one of  
17 cooperation.

18 I think, with the response given to Senator Danforth,  
19 that before you did anything there would be consultation with  
20 this committee. Obviously this is a very sensitive matter  
21 with Senator Pryor, even though as I understand, the bromine  
22 production in Israel is -- what? -- 2-3 percent of U.S.  
23 consumption? It is a very minor amount, but still it is a  
24 matter of concern. So if I have misstated your view of this  
25 committee and our responsibility in working with you, then

1 I would clarify it.

2 Ambassador Brock. You have stated it precisely,  
3 Senator. I do value greatly the obligation I have to this  
4 committee, and I have every intention of maintaining the  
5 responsibility that I have to work with you.

6 The Chairman. Do you want to offer your amendment,  
7 Dave?

8 Senator Pryor. Yes. I don't have an amendment  
9 prepared, but the concept -- I don't know whether we have  
10 to amend sections 102 and 124.

11 The Chairman. Section 124 has been withdrawn.

12 Senator Pryor. All right. So it would be an amendment  
13 to section 102, basically excluding bromine. But this is  
14 no disrespect to the Ambassador.

15 The Chairman. You are opposed to the amendment?

16 Senator Roth. Could I raise a question, Mr. Chairman?  
17 What concerns me, and I understand Dave's concern about that,  
18 but I have some things I am concerned about. Are we going to  
19 start writing all of these exceptions?

20 Ambassador Brock. That is precisely my concern,  
21 Senator. If you give me a product-exclusion list, you can't  
22 have one on it, you are going to have 50 to 100, and there  
23 is simply no way to negotiate under those circumstances.

24 Senator Roth. But as I understand it, you have assured  
25 that you are going to work with us in these sensitive areas.

1           Ambassador Brock. My assurance is that I will take  
2 every comment made here, and in the process of the next  
3 two or three months from each of you and your staffs, into  
4 consideration. We will meet with your individual industries  
5 and will take their concerns into consideration, and we will  
6 try to craft a negotiated settlement that increases job  
7 employment, not reduces it.

8           The Chairman. I wanted to raise something for  
9 Senator Grassley. There has been a big increase in pork  
10 imports from Canada. As I understand it, that might not  
11 be in any agreement, in any event.

12          Ambassador Brock. That is not on any list that we  
13 have in front of us, Senator.

14          The Chairman. Right, I know it's not. But we are  
15 requesting a study from the International Trade Commission  
16 on it, and I assume that letter is in the draft stage.

17          Senator Long. Well, Mr. Lang, in these type things  
18 where we try to get a free trade arrangement for the  
19 country, is it unprecedented for us to say that "we'll free  
20 trade with you on most things, but on a particular commodity,"  
21 on this or that, "we are not going to free trade on that one"?

22          Mr. Lang. This country has no free trade zones at this  
23 time, but it is not unprecedented in GATT practice for  
24 countries to accept some of the trade but not all of it  
25 from the arrangement. There are arrangements -- Senator Pryor

1 pointed some of them out before -- where less than 100 percent  
2 of all the trade is covered by the arrangement and it  
3 nevertheless has somehow survived GATT attack.

4 Senator Long. Well now, Senator Mitchell brought the  
5 point up and apparently it was agreed to or accepted in  
6 principle by the Ambassador that, on these trade-sensitive  
7 items, that we could make it clear that we would expect  
8 to protect those areas or those trade-sensitive items. I  
9 thought that was where the conversation went on that subject.

10 Mr. Lang. I think Senator Mitchell was referring to the  
11 list of items that are excluded from the Caribbean Basin  
12 Initiative.

13 Senator Long. Right.

14 Mr. Lang. And the legal difference between the two  
15 projects is this: CBI requires a waiver of the GATT MFN  
16 provisions, whereas free trade areas are provided for in the  
17 GATT so long as they meet certain standards. One of the  
18 standards for a free trade area is that it cover substantially  
19 all of the trade between the countries that are parties to  
20 the free trade area.

21 So the issue raised by an amendment like bromine is  
22 whether we would somehow be excepting a substantial portion  
23 of the trade between the countries.

24 Senator Long. Now we say "substantially." It says it  
25 covers "substantially" all of it. Well, there is a hell of a

1 lot of difference between "all" and "substantially all."

2 Right?

3 Mr. Lang. Yes.

4 Senator Long. In other words, in those words  
5 "substantially all" you can include as much as you --  
6 How much is "substantially all"? Has that been defined?

7 Mr. Lang. There are free trade arrangements in  
8 existence now that cover less than 100 percent. One of them  
9 I believe covers only about 50 percent of the trade by value,  
10 and others cover in the 90s. That is the information  
11 provided to us.

12 Senator Long. So, if "substantially all" could mean  
13 anything from 50 percent up to 90 percent, what percent of  
14 the trade between the United States and Israel is bromine?  
15 Who can tell us that?

16 The Chairman. I think we have -- what is it? -- about  
17 about 2 to 3 percent?

18 Mr. Kassinger. Senator, the only figure I have is that  
19 Israeli imports of bromine account for 2 to 3 percent of U.S.  
20 consumption, as a dollar figure on trade.

21 Ambassador Brock. It is less than \$10 million, and we  
22 buy from Israel about \$1.25 million, so I think you are  
23 talking less than 1 percent.

24 Senator Long. Well, are we talking about less than  
25 1 percent of the trade between the two countries as being

1 being bromine?

2 Ambassador Brock. Less than 1 percent of our imports.  
3 It is less than about a quarter of 1 percent of the total  
4 trade.

5 Senator Long. Well, if it is less than 1 percent of  
6 the imports, it seems to me that Senator Pryor's amendment  
7 could very well fall under the thing that, having agreed to  
8 the amendment, that we are still talking about, about free  
9 trade on "substantially all."

10 "Substantially all" could be 99 percent. Hell, you say  
11 you've got some of them where what they regard as  
12 "substantially all" is only about 50 percent of it under  
13 the tent.

14 Ambassador Block. Senator Long, the problem is not  
15 that we can't put it under the "substantially all" category.  
16 If it said "all" then the negotiation would be very simple.  
17 The whole purpose of a negotiation is to phase this thing  
18 in carefully so that you don't disrupt each other's sensitive  
19 areas. That is the reason for the negotiation. Otherwise,  
20 you would simply sign a contract saying today or five years  
21 from now no barriers exist. And that doesn't require any  
22 negotiation at all.

23 But the whole logic of the GATT process, the use of the  
24 word "substantially" gives us the flexibility to accommodate  
25 these kinds of problems.

1           Senator Long. But now, Mr. Ambassador, I am trying to  
2 help you with your job, and I am trying to help other  
3 people with their problems, too.

4           You agreed here with Senator Mitchell that in working  
5 this thing out you are going to look at these import-  
6 sensitive areas, and you are going to take their problems  
7 into consideration in working this thing out.

8           I am just saying, well, the same philosophy generally  
9 ought to apply to Senator Pryor's problem there. He has  
10 got an industry that is very important to his State, and  
11 I think they are important. For one reason, we have a few  
12 Louisianans who now and then migrate across into Arkansas  
13 and find a job up there. So he would like to protect their  
14 interests while we are looking at the people that we are  
15 taking care of already.

16           When we say, well, if the agreement applies to  
17 substantially all of our trade, it seems to me that when  
18 we are ready to apply it to 99 percent -- I am not proposing  
19 to vote to eliminate all of these other people you are  
20 talking about. No case has been made for them. But I think  
21 Senator Pryor has a problem here, and I don't know why we  
22 shouldn't be able to take care of his without having to take  
23 care of all of these other things that you are fearing might  
24 get into it. I am not planning to vote for all of those  
25 people, but I am inclined to vote for Senator Pryor's



1 situation. And we still have 90 percent of the rest of them  
2 that you could do whatever you want to do about.

3 Senator Mitchell. Mr. Chairman, if I may interject  
4 a point of clarification?

5 The Chairman. Yes.

6 Senator Mitchell. I wish he had agreed with me, but  
7 in fairness to Mr. Brock I should point out that his  
8 agreement that there should be limitations on those products  
9 that were determined to be import-sensitive under the CBI  
10 was limited to section 124. That is the section that is  
11 not covered by the Israel-Canada agreement. And since  
12 Mr. Brock has now agreed -- apparently reluctantly, but  
13 nonetheless agreed -- to drop section 124, I am very  
14 grateful to him for having agreed to exclude the CBI part of  
15 that but that is now meaningless, because we have gone back  
16 to square-one with respect to shoes and textiles. I am in  
17 the same boat that Dave Pryor is in.

18 The Chairman. That is the question I was going to ask.  
19 If you make a case for the Pryor amendment, everybody else  
20 can make a case for steel, shoes, textiles.

21 Senator Long. You don't have the same problem, though.  
22 You don't have the same problem. They have got themselves  
23 a bromine industry that is shipping in here. I am not  
24 complaining about it, but Senator Pryor is worried about how  
25 far they go with it. And he is wanting to share the burden

1 and wants other folks to share the burden of the imports.  
2 And I think that is fair. We are willing to share the burden  
3 of the imports with him.

4 The Chairman. I don't know, maybe you can make a  
5 different case. I just wanted to ask the Ambassador if  
6 there is some way we can.

7 Ambassador Brock. I think every proponent of every  
8 amendment thinks that their case is unique. And I am sure  
9 that in the case of Senator Mitchell, he has an absolutely  
10 legitimate concern with his shoes and textile people, and  
11 others will have concerns with tomatoes and tomato paste  
12 and everything else.

13 The Chairman. I guess the question is, if the only  
14 way we can assure Senators is through specific amendments? I  
15 guess in the alternative, is there some other way than with  
16 a specific amendment that you can give Senator Pryor and  
17 Senator Mitchell and Senator Chafee and Senator Heinz,  
18 Moynihan, others, the assurance they need so that they can  
19 properly represent to their constituents that the problem has  
20 been eased?

21 Ambassador Brock. Mr. Chairman, I have given 35-odd  
22 times today every assurance that I am capable of giving that  
23 we will take these concerns into consideration in the  
24 negotiations, that we will consult with the Senators and  
25 their staffs and their constituents and their industries and

1 their unions throughout the process, that they will be  
2 directly involved in the negotiations, and there will be  
3 no surprises. I am not sure what in the world I can add to  
4 that.

5 The Chairman. Could we do that in report language  
6 that would satisfy the concerns? It would seem to me if you  
7 have got the promise from Ambassador Brock that nothing is  
8 going to happen until you have had this consultation -- that  
9 is in essence what you are saying; is that correct?

10 Ambassador Brock. That's right.

11 Senator Chafee. Well, Mr. Chairman, speaking for myself,  
12 that is adequate. I have concerns like everybody does with  
13 a particular industry, but I think we would be going down  
14 the wrong path if we started specifically to exclude these,  
15 because obviously there is no end to it. We are just 15 or  
16 16 Senators here, and there are 84 more out there on the floor  
17 of the House.

18 The Chairman. They would be shut out under the  
19 procedure.

20 Senator Chafee. Well, that is a thought I hadn't  
21 considered before.

22 (Laughter)

23 Senator Chafee. But what Ambassador Brock has said as  
24 far as I am concerned is adequate reassurance. That's all  
25 we want, our day in court. And I would not seek to have my

1 item specifically on any list, as long as nobody had theirs  
2 on a list.

3 (Laughter)

4 The Chairman. Senator Mitchell?

5 Senator Mitchell. Mr. Chairman, I just wanted to make  
6 two points to explain why I cannot be as forthcoming as  
7 Senator Chafee.

8 The first is: All of this discussion has focused on  
9 the quantity of trade between the United States and Israel --  
10 Senator Bradley. Don't forget Canada here.

11 Senator Mitchell. -- Canada, in a particular product  
12 area.

13 One of the difficulties is that that may be a  
14 relatively small amount, but it may be the straw that breaks  
15 the camel's back. Seventy percent of all shoes sold in  
16 this country are now imported. The increase has been  
17 absolutely devastating in the last three years. Even a  
18 relatively small addition to that makes the industry's  
19 position that much more difficult. That is the first point.

20 The second point is, I have great confidence in  
21 Mr. Brock, I have great faith in him. I really do. I think  
22 he is doing an outstanding job. But look at it from the  
23 standpoint of the shoe industry. We have had a lot of  
24 assurances about discussion, about consultation, about  
25 study by the ITC, and recommendations. In 1981 the ITC

1 studied it, and for the third time in six years they said  
2 the industry is suffering terribly, imports were over  
3 50 percent, they need relief. What happened? The  
4 Administration terminated the import program that was then  
5 in existence, and imports have now skyrocketed to 70 percent.  
6 From their standpoint I accept these assurances. But from  
7 the standpoint of everybody in the shoe industry, it is a  
8 pretty tough thing to persuade them that the assurances  
9 ought to be accepted.

10 Senator Danforth. Mr. Chairman, let me just add, I  
11 have exactly the same interest in the shoe industry as  
12 Senator Mitchell -- precisely. I was there testifying  
13 before the ITC with Senator Mitchell.

14 Again, I would just simply point out that there is  
15 no reason why anyone has to accept what the Administration  
16 does with blind faith, for the reason that they are not  
17 going to do anything until they come back to the Congress.

18 We will be able to meet with them beforehand. We will  
19 be able to have hearings with them; we will be able to mark  
20 up their proposal; we will be able to vote specifically on  
21 the question of the shoe industry, or the bromine industry,  
22 or whatever, when it comes back here to the Finance Committee.  
23 We can have an extensive debate. We can vote in the Finance  
24 Committee without even going to the floor on the bromine  
25 industry, and in effect send the Administration back to

1 negotiations.

2 So it is not a matter of just hounding the ITC or  
3 anything like that, or hounding the Administration in the  
4 201 case, nothing like that at all. We have the  
5 responsibility in the Congress, the constitutional  
6 responsibility, for negotiating tariff reductions. That is  
7 our job in the Congress.

8 All we are doing is setting up a process for the  
9 execution of that, and the final word is in the Congress.

10 Senator Mitchell. But you know very well, Senator,  
11 that a skillful person coming in here with a total-package  
12 argument -- and we hear it every day on the floor of the  
13 Senate, and you would do the same thing, and he will do  
14 the same thing -- it is to say "we've got a total agreement  
15 here." And if you attack one part of it, then you are  
16 undermining the whole agreement, and "the only way we are  
17 going to get this thing approved is the way we negotiated it,  
18 a total agreement." The task of dealing with the specific  
19 aspect of it, certainly the opportunity will be there, but  
20 the task will be far greater. And as Senator Pryor has said,  
21 perhaps it will be insurmountable.

22 My point is that, if we don't want them to deal in  
23 these areas, what's wrong with saying so now? Why wait until  
24 then?

25 Senator Danforth. Let me simply point out, though, that

1 is not the way the system works. The way the system works  
2 is, there are two periods of time -- one is 60 days long  
3 and one is 90 days long. Is that correct?

4 Mr. Kassinger. That is correct, Senator.

5 Senator Danforth. And during the first 60-day period  
6 of time, we in effect mark up a bill. And we go through item  
7 by item -- shoes, bromine, textiles, anything that we don't  
8 like, if they make the mistake of putting these hot items  
9 in the deal, and I can't imagine they will, but if after  
10 all this they make the mistake, we can go through and we can  
11 say "let's have a vote right here in the Finance Committee  
12 on shoes." Senator Mitchell votes No, Senator Danforth votes  
13 No, Senator Pryor votes No, anybody with a shoe factory votes  
14 No.

15 And then we go through with bromine or anything else.  
16 I don't think it is necessary to do it. I think the problem  
17 with putting it in at this point is exactly what Senator  
18 Chafee said: Senator Pryor adds bromines, then you feel  
19 compelled to add shoes, so do I, then textiles, then we've  
20 got the gold chains, and on and on and on. And there is  
21 absolutely not end to it. And before you end up with this  
22 process, they can't negotiate, because they cannot come out  
23 of this bill making a representation in GATT terms that this  
24 is substantially all of the trade program.

25 Senator Mitchell. Well, I don't want to prolong it,

1 Mr. Chairman, and I recognize where the votes are, I  
2 simply want to say, though, that inevitably the logic is  
3 inescapable that if you don't want to exclude something at  
4 the outset, you want the authority to include it in the  
5 negotiations and the agreement. And it simply doesn't wash  
6 to say "don't exclude them, leave them in so we can  
7 negotiate on them; but don't worry, we won't include them  
8 in the agreement." If you don't have any intention of  
9 including them in the agreement, then why not exclude them  
10 at the outset?

11 Senator Danforth. It may be inescapable to you, but  
12 it escapes me. I mean, I just don't see it.

13 Senator Pryor. Mr. Chairman, I propose a vote. I am  
14 willing at this point, because I sense a little bit about  
15 the chemistry involved.

16 The Chairman. All right. All those in favor of the  
17 amendment signify by saying Aye.

18 (Chorus of Ayes)

19 The Chairman. All opposed, No.

20 (Chorus of Noes)

21 The Chairman. In the opinion of the chair, the Noes  
22 have it.

23 Senator Mitchell. Mr. Chairman, could I offer the  
24 CBI equivalent now?

25 The Chairman. Yes.



1 All in favor say Aye.

2 (Chorus of Ayes)

3 The Chairman. Opposed, No.

4 (Chorus of Noes)

5 The Chairman. In the opinion of the Chair, the Noes  
6 have it.

7 Senator Bradley. Mr. Chairman, may I offer tomatoes?

8 (Laughter)

9 The Chairman. Tomatoes? Do you want to vote on it?

10 You are going to lose one.

11 All in favor of tomatoes?

12 (Chorus of Ayes)

13 The Chairman. Opposed, No.

14 (Chorus of Noes)

15 The Chairman. No tomatoes.

16 Senator Heinz. I would like to point out that I do not  
17 wish to be recorded on that.

18 (Laughter)

19 Senator Bradley. Mr. Chairman, I don't have another  
20 amendment, but I do want to tell the USTR that on the  
21 Canadian negotiations there are a long list of things, not  
22 the least of which is the blockage of uranium exports to the  
23 United States, that you have to take into consideration.  
24 And I would also look at the attempt to put obstacles in  
25 U.S. tourist information going into Canada.

1           The Chairman. Now, as I understand, there are no  
2 further amendments. How do we package this package?

3           Senator Heinz. Can we have a voice vote on my second  
4 proposal, Mr. Chairman?

5           The Chairman. Have you lobbied Senator Chafee?

6           Senator Heinz. I have lobbied Senator Chafee very  
7 hard.

8           The Chairman. The reason I was prepared to accept that  
9 was because the Administration indicated that they were  
10 favorably disposed. It wasn't something that hadn't been  
11 discussed.

12           I don't know whether Jeff Lang has had a chance -- are  
13 you familiar with that second proposal?

14           Mr. Lang. I am not familiar with it, Senator.

15           Senator Heinz. Well, I don't want to put Senator Chafee  
16 through the hoops, but I would hope he would agree. If not,  
17 I can offer it some other time.

18           The Chairman. Well, why don't you withhold it now,  
19 because I understand that Jeff hasn't had a chance to advise  
20 Senator Long of its impact. So let's report it out as an  
21 S-numbered bill. It will be offered in an appropriate vehicle  
22 on the floor?

23           Mr. DeArment. That is correct.

24           Senator Danforth. And the appropriate vehicle would  
25 be a matter that would be admitted with some consultation?

1 The Chairman. Yes.

2 And we will be in a report, and I think we should  
3 include in report language -- let's let Senator Pryor and  
4 Senator Mitchell and some others work with USTR and staff  
5 to see if we can ease any concern you have.

6 There is just one other question I wanted to raise.

7 Senator Chafee. Well, Mr. Chairman, we are starting  
8 down a path here that, if that's going to be done, then  
9 obviously I want to be in on it.

10 The Chairman. No, I am just talking about the general  
11 statements made by Ambassador Brock in response to  
12 Senator Danforth's question, that there will be a  
13 consultation process.

14 Senator Chafee. But if we are going to get into  
15 specifically listing various shoes industries, and so forth,  
16 then --

17 The Chairman. Oh, no. That is not what I suggest.

18 Senator Chafee. All right.

19 Now, Mr. Chairman, finally, about the Heinz second  
20 amendment, you said we would take that up later? I didn't  
21 quite get that.

22 The Chairman. Later, but I don't know when that will be.

23 Senator Chafee. Do you mean on another piece of  
24 legislation?

25 The Chairman. Right.

1 Senator Chafee. All right.

2 The Chairman. I wanted to raise one other question and  
3 see what the disposition of the committee is:

4 In visiting with Chairman Rostenkowski on the debt  
5 ceiling -- I know there are some here recorded in opposition  
6 to what we did last week -- he suggested to me that we  
7 extend it up through June 30 rather than March 30th, on the  
8 theory that whoever is in control of the Senate, whoever  
9 is in the White House, whoever is in control of the House  
10 will need at least six months next year, and he doesn't  
11 believe that it is very practical to come back here and have  
12 to start extending the debt ceiling in March.

13 Now, I am willing to do that if there is no objection  
14 from the committee. Do you have any objection?

15 Senator Long. I don't object to that, Mr. Chairman, but  
16 if the plan is to put that on this bill that we are  
17 considering on the Senate floor right now, I discussed that  
18 matter with Mr. Byrd, the Democratic leader, and we both  
19 decided yesterday that we would like to think about it  
20 overnight, and we just haven't had a chance to talk about  
21 whether we are in favor of putting it on this bill out here  
22 or not.

23 The Chairman. Right. I think Senator Baker plans to  
24 have you and me and Senator Byrd visit about it. But if  
25 there is no objection to that, it is requested by the House

1 side, and I concur. I don't think we want to start dealing  
2 with the debt ceiling next February. We may want to vote  
3 against it whenever it comes up on the floor. That would  
4 raise it just how much?

5 Mr. DeArment. That would be \$50-some billion more.  
6 The number would be 1.752.6.

7 The Chairman. All right. Let's agree to that, if we  
8 can.

9 Senator Long. I think the Chairman has a point there.

10 Ambassador Brock. Mr. Chairman, could I just make one  
11 point here? We talked a lot today about 124 authority.  
12 Obviously I haven't made my case to this committee with  
13 complete effectiveness yet. If you have an opportunity, I  
14 would love to have a chance to come back and talk to you about  
15 it at some future date, in the not too distant future if that  
16 is possible.

17 If I can just say, I don't want to let the matter lie  
18 where it is now. I would like to discuss 124 authority with  
19 you, because I still think this country -- I am getting  
20 a lot of requests from industries that want me to negotiate  
21 tariff cuts in their area. And when U.S. industry asks us  
22 for a tariff cut, it seems to me that generally it makes  
23 sense for us to go out and negotiate it. And lacking that  
24 authority puts us in a little bit of a bind. And I would  
25 appreciate a chance to come back and visit with you about it.

1           The Chairman. Well, I think, even better, maybe, if  
2 Senator Danforth would arrange a hearing some time in the  
3 next three or four weeks.

4           Ambassador Brock. That is really what I was  
5 talking about.

6           The Chairman. I think Senator Bradley and others,  
7 Senator Heinz, had questions they wanted to raise at that  
8 point.

9           Senator Grassley. Mr. Chairman, I have a short question  
10 I want to get on the record before Ambassador Brock goes,  
11 and that is in regard to the supposition that if we do have  
12 a free trade zone, we'll say with Israel, or I suppose it  
13 would apply to any other country, but the one now, and  
14 everything is duty-free, and at some future date there  
15 might be an American industry that is targeted and injured,  
16 does the fact that we have a free trade zone preclude any  
17 ITC relief for that industry?

18           Ambassador Brock. None whatsoever. All of our  
19 present laws and the present protections against abuse and  
20 unfair trade will be maintained.

21           The Chairman. Is there any other technical amendment  
22 we need to do?

23           Mr. DeArment. We need to draft the bill.

24           The Chairman. Obviously, the staff working with all  
25 the staff have the authority to make the technical changes.

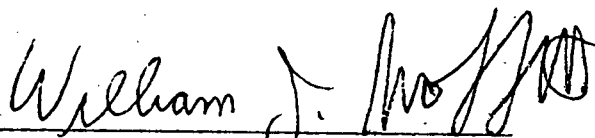
1 Thank you, Mr. Brock.

2 (Whereupon, at 12:33 p.m., the session was concluded.)  
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This is to certify that the foregoing proceedings of an executive session of the Committee on Finance regarding Authorization for a U.S. - Israel Free-Trade Area and Limited Other Tariff Negotiations, held on May 9, 1984, were held as herein appears and that this is the original transcript thereof.

  
WILLIAM J. MOFFITT

My Commission expires April 14, 1989.



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# United States Senate

COMMITTEE ON FINANCE  
WASHINGTON, D.C. 20510

RODERICK A. D'ARMENT, CHIEF COUNSEL AND STAFF DIRECTOR  
MICHAEL STERN, MINORITY STAFF DIRECTOR

May 8, 1984

## MEMORANDUM

TO: MEMBERS, COMMITTEE ON FINANCE

FROM: FINANCE COMMITTEE TRADE STAFF

SUBJECT: MARKUP ON WEDNESDAY, MAY 9, REGARDING  
AUTHORIZATION FOR A U.S.-ISRAEL FREE-TRADE  
AREA AND LIMITED OTHER TARIFF NEGOTIATIONS

On Wednesday, May 9, the Committee will markup a proposal by the Administration to renew limited tariff negotiating authority in order to negotiate the creation of a free-trade area with Israel, and the reciprocal reduction or elimination of tariffs on articles traded with other countries. In particular, the Administration may seek to negotiate a limited free-trade area with Canada. The authority would be limited by the total value of tariffs cut, and would expire in 3 years.

### Background on Israel Free-Trade Area

In meetings with Prime Minister Shamir last November, President Reagan agreed to pursue negotiations to establish a free-trade area with Israel. Discussions have commenced between representatives of the two governments, but in order to conclude such a tariff-eliminating arrangement, the President must receive tariff negotiating and proclamation authority from the Congress. The President's basic tariff negotiating authority, contained in section 101 of the Trade Act of 1974, expired in 1979, and his "residual" authority, contained in section 124 of the Act, expired in 1982. The Administration therefore proposes enactment of tariff negotiating authority sufficient to conclude such an agreement with Israel. There is at present no bill before the Committee regarding this proposal, but the Committee held a hearing concerning it on February 6, 1984.

### Current U.S.-Israel Trade

In 1982, the United States incurred a \$500 million trade surplus with Israel, based on exports of \$1.7 billion and imports of \$1.2 billion. Ninety percent of Israeli imports into the

United States enter duty-free: \$641 million because the MFN duty rates are zero, and another \$403 million because of the Generalized System of Preferences (GSP). Israel is the 7th largest beneficiary under the GSP.

Israel entered into a free-trade arrangement with the European Communities (EC) in 1975. Because this results in preferences for EC products imported into Israel, as a condition of receiving GSP benefits Israel was required, under section 502 of the Trade Act of 1974, to assure the President that the E.C. preferences would not significantly and adversely affect U.S. trade. A formal understanding was reached in 1975 to satisfy this requirement, pursuant to which Israel agreed to lower MFN duties on 133 items of interest to U.S. exporters. As a result of this agreement and Israel's zero-duty rates on other imports, only 40 percent of U.S. exports to Israel are dutiable.

Principal U.S. agricultural exports to Israel include wheat, maize, millet, and soybeans. Industrial exports include motor vehicle and related equipment, heavy equipment, chemicals, and electrical equipment. Among Israeli exports to the U.S. that remain dutiable, the principal products are textiles and apparel, jewelry, bromine chemicals, citrus products, processed tomato products, and glassware.

#### Reason for Proposal

Although the vast majority of imports from Israel already enter the United States duty-free, Israel seeks the free-trade arrangement because it offers the opportunity for broader product coverage than that offered by the Generalized System of Preferences. Further, the GSP expires in January 1985; Israel seeks a more secure, predictable regime for its U.S. trade than the GSP offers.

The United States could expect to increase exports in those product sectors still subject to tariffs (40 percent of Israeli imports of U.S. products). Further, the Administration believes that a free-trade arrangement would eliminate the increasing advantage EC exporters enjoy with regard to the Israeli market because of a free-trade area concluded with the EC in 1975 and scheduled to be phased in fully by 1985 (subject to certain possible extensions until 1989). Under that agreement, Israel eliminated tariffs on about 60 percent of its industrial imports (but only 1 percent of its agricultural imports) from the EC. For the proposed arrangement with the United States, the countries are discussing a more encompassing set of concessions.

#### Negotiating Authority

In order to put into effect a free-trade arrangement with Israel, or to proclaim any other tariff changes resulting from

trade agreements, the President needs Congressional authorization to enter into a binding tariff-reduction agreement and to proclaim the changes in duties resulting from such an agreement. The President's basic tariff negotiation and proclamation authority is contained in section 101 of the Trade Act of 1974; however, this authority expired in 1979 and has not been renewed. The Administration therefore seeks some form of tariff negotiating authority with which to conclude and to put into effect the free-trade arrangement with Israel.

Section 102 of the Trade Act remains in effect and provides the President with authority to negotiate with regard to nontariff barriers to and other distortions of trade. The President may seek to negotiate with Israel on nontariff matters related to the free-trade arrangement pursuant to this authority, although no such matters have been raised at this time.

At the hearing on February 6, Ambassador Brock testified that in addition to the U.S.-Israel free-trade area proposal, there are other matters requiring tariff negotiating authority that are under review in the Administration. For example, in his State of the Union address, President Reagan referred to a possible new round of trade negotiations. Japan and the United States have agreed to a mutual reduction of tariffs on certain semiconductors and computer equipment. (Authority to proclaim these reductions is contained in title III of H.R. 3398, the omnibus tariff bill reported by the Committee in November.) The trade ministers of the United States, Japan, Canada, and the EC have agreed to seek acceleration of the tariff reductions agreed to in the multilateral trade negotiations. Finally, Canada has proposed that a limited free-trade area be established with the United States.

The Administration proposal is designed to authorize three types of tariff negotiations: (1) the Israeli free-trade proposal; (2) the negotiations with Canada; and (3) miscellaneous items for which U.S. industries request negotiations. The proposal would take the form of amendments to both sections 102 and 124 of the 1974 Act. Section 101 would not be renewed. The free-trade agreements negotiated under the new section 102 would be subject to subsequent Congressional approval; minor tariff agreements concluded under section 124 would merely be proclaimed by the President.

TK:mom