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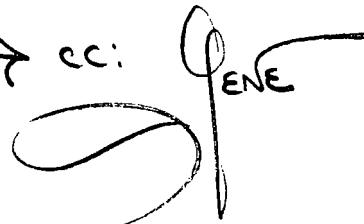
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Memorandum

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To: Bob Kyle, NEC
From: Rick Samans, Sen. Daschle
Ref: Environmental and Labor Rights Trade Policy Options
Date: September 6, 1997

Per your request during our meeting in August, here are suggestions of meaningful labor and environmental trade initiatives the Administration could undertake irrespective of the scope of the negotiating objectives included in the fast-track bill. Although none would necessitate changes in US law, each would promote, in some cases quite significantly, the long-term policy objective of reconciling worker rights and environmental considerations with global trade rules, while helping to improve the political climate surrounding the fast-track bill for Democratic Senators. These are measured, incremental steps that would strengthen the effectiveness of existing trade institutions and/or lay the groundwork, in building-block fashion, for future efforts at building an international consensus on these contentious issues. As such, there is little here that is likely to give the business community legitimate cause for concern, but there is plenty to give the Administration what environmentalists and labor activists insist it now lacks: a concrete and coherent trade policy agenda on the environment and worker rights.

I. Environment

A. Secure Transparency and Public Participation in WTO Proceedings

Environmental groups are deeply frustrated by what they perceive as the closed nature of the WTO dispute settlement process. Numerous American trade policy experts agree that process reforms are warranted. One need not share the environmentalists' trade law agenda to take the view that they ought to have their day in court. Accordingly, taking up the banner of transparency, public participation, and due process in the WTO would seem to be an obvious marriage of good politics and policy for the Administration. While the USTR has advocated reform in the past, the Administration should consider making a commitment to increase the international (and domestic) profile of these efforts in the coming years by, for example, pledging to place process reforms formally on the WTO agenda at the 1998 ministerial. Among the reforms it could advocate as the agenda for such talks are:

- acceptance of *amicus* style briefs from non-governmental interested parties on panels dealing with environmental issues;
- opening nearly all panel meetings to NGOs and the public (e.g., hearings, presentations of legal arguments, etc.);
- publishing documents in a timely fashion so that NGOs have the opportunity to provide expertise and guidance in real time.

In general, the Administration would do well to preempt growing public concerns about the erosion of US sovereignty by announcing that it will work to bring into line with US practices the administrative procedures of the international bodies to which we are losing an increasing degree of regulatory autonomy. To this end, you might want to conduct your own analysis of how these procedures stack up against the requirements of the Administrative Procedures Act or support a

Congressional review (through the GAO?) of the same. Bottom line: pledging action on transparency and public participation in the WTO is a politically low-cost way for the Administration to make common cause with one of the highest priority but least controversial elements of the environmental community's trade policy agenda. It is also the right thing to do on trade policy grounds. The last thing free traders should want is a recreation of the EU's divisive subsidiarity debate in the US, fueled by isolationist claims that we are losing decision-making autonomy to an unaccountable, undemocratic "world governmental" body. The US ought to be moving assertively now, in the early stages of the construction of world trade institutions, to establish precedents for how these and future bodies will conduct the public's business. This is the best insurance that these institutions and the liberal economic principles they embody will stand the test of time in the court of public opinion.

B. Seek Appointment of Eminent Persons Group on GATT and the Environment

Over the years, environmentalists have argued that global trade rules do not sufficiently accommodate national environmental prerogatives when they conflict with commercial considerations. A prominent example is the Tuna-Dolphin case. In recent years, a number of scholars have analyzed these arguments and distilled them down to a few legitimate problem areas, notably aspects of GATT Articles III and XX. In addition, there have been a few private efforts to convene groups of experts in an attempt to bridge the gap, at least conceptually, between trade lawyers, environmentalists, commercial interests, and developing countries. These groups made some progress; however, it now seems appropriate to take this process to the next level.

On occasion, the international trade policy community has turned to Eminent Persons Groups to clarify issues, identify agenda items, and generally lay the groundwork for official diplomatic initiatives. A pledge by the Administration to press for the appointment of such a group to examine possible conflicts between GATT and environmental principles in preparation for the Millennial WTO Round would serve parallel policy and political purposes. The specific legal problems at issue seem ripe for serious, quasi-official consideration by experts. Such a group, limited in size and agenda and insulated to some extent from constituent politics, might be able to expand the scope of common ground on these issues where the larger, less focused WTO Committee on Trade and the Environment has thus far failed. And advocacy by the Administration of this kind of measured step would resonate with environmentalists without boxing in the USTR with respect to its future negotiating posture.

C. Improve Effectiveness of NAFTA Side Agreement Institutions

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II. Labor

A. Conduct Benchmark Review of Labor Rights Conditions in Future FTA Partners

As we discussed in our meeting, a modest but useful way to minimize the potential for weak or unenforced labor standards to distort trade and investment flows would be for the Administration to conduct and publicly release a survey of relevant labor laws and enforcement practices for each country slated to join an FTA with us. Public disclosure of such surveys before approval of the corresponding FTA by Congress would generate subtle but effective pressure on countries to improve their worker rights practices. It would be awkward for the business community and Republicans to oppose this, because they'd be forced to argue that Americans ought not to be fully informed about economic conditions prevailing in future FTA partners. In effect, they'd have to oppose the public's right to know. As Debbie mentioned, this is an idea Sen. Moynihan has been exploring.

B. Strengthen North American Agreement on Labor Cooperation (NAALC)

The Administration could do much to mute criticism of the NAFTA labor side agreement and reaffirm its appreciation of the linkage between trade and worker rights by pledging to rectify two problems that limit the NAALC's effectiveness: its relatively weak capacity to gather and disseminate information independently and relegation of the most important labor rights issues to the weakest category of disciplines. It might pledge to fix these problems either immediately or during FTAA negotiations to transform the NAALC into a hemispheric institution.

1) Independent Monitoring and Disclosure

For the foreseeable future, probably the most feasible way for the U.S. to promote progress on international labor rights would be to adopt a conscious strategy to raise the level of public disclosure of worker rights conditions and enforcement practices in countries that join FTAs with us. Such disclosure is often a surprisingly effective force for change, as is evidenced by the State Department's annual human rights reporting exercise.

Although the NAALC provides a starting point for such an effort, I'm under the impression that it has neither the capacity nor the mandate to perform this function. In addition to having limited staff resources, I'm told the Secretariat has to rely on information that is either publicly available or provided by member governments. Such information is often deliberately restricted. Moreover, the Secretariat has no real mandate to issue periodic (I'd suggest annual) reports on worker rights conditions and enforcement practices within member countries. As a result, while the NAALC establishes an *ad hoc* mechanism, and a cumbersome and time-consuming one at that, for

addressing specific complaints, it is not currently equipped to serve as a vehicle for bringing moral suasion consistently to bear through the light of regular public attention.

It is hardly unprecedented for an international institution to monitor and issue annual reports on member country policies; the IMF, ILO and other bodies have been doing so for years. The NAALC or its FTAA successor could be given adequate staff resources, authority to gather its own information to supplement that found in public and governmental sources, and a mandate to issue reports on member countries that, for the year in question: a) survey major labor rights developments, perhaps building on the benchmark survey of worker rights conditions conducted by US DOL per Proposal II A above; b) report on any NAALC-related proceedings regarding the country in question; and c) relate any relevant actions by national governments to implement or otherwise follow-up on NAALC cases.

The Administration has an opportunity to lead in the construction of an infrastructure to harness the force of international public attention in the cause of worker rights. The NAALC provided the foundation, and the FTAA presents you with an opportunity to finish the job (or at least make significant progress thereon). This strategy is wholly consistent with the Administration's decision in 1993 to focus the NAFTA labor side agreement on ensuring enforcement of national laws rather than forcing compliance with international standards. By emphasizing public accountability rather than international intervention, it simply follows through on that approach without any further infringement of member countries' policy autonomy.

While some countries and business interests will no doubt object to an effort to bring greater public scrutiny to bear on these matters, even they will be forced to concede that this strategy is a far cry from that demanded by organized labor: aggressive imposition of trade sanctions on countries that fail to measure up. The proposition that Americans should be kept in the dark when a competing country effectively subsidizes its exports by impeding the forces of supply and demand in its labor markets is just not sustainable, and I think the public debate would reflect that over time if the case were presented properly. On the other hand, while this strategy would hardly satisfy organized labor, it would be appreciated by labor rights activists judging from my conversations with them.

2) Upgrade Status of Freedom of Association in the NAALC

The NAALC divides its eleven labor principles, or rights, into three categories of treatment. The first, weakest tier includes freedom of association, the right to bargain collectively, and the right to strike. Although these are core standards, complaints about them are entitled only to review by the labor ministry to whom the complaint is brought, which has the option of requesting consultations with the labor ministry of the country in which the alleged violation has taken place. For these complaints relating to these three labor principles, there is no recourse to an independent panel for evaluation of the issues, nor is there any prospect of international arbitration and the imposition of sanctions.

Complaints brought concerning the second category of labor rights, including prohibition of forced labor, equal pay, workers' compensation, etc., may proceed from review to an evaluation by an independent panel of experts. But these, too, are not eligible for arbitration or sanctions. Only the third category of rights, covering child labor, minimum wage, and occupational safety and health issues, is eligible for the full spectrum of attention that encompasses review, independent evaluation, as well as arbitration, with the possible application of sanctions in cases of a "persistent pattern of failure to effectively enforce laws" in those areas.

The problem here is that the main way lax enforcement of worker rights translates into distorted trade and investment flows is through suppression of union organizing, which relates primarily to the labor rights in the first, weakest category outlined above. In order to subsidize production by keeping wages low, governments either block the formation of unions or, as in Mexico, block the

formation of unions independent of those controlled by the government. Four of the six cases brought to date under the NAALC alleged interference in independent union organizing at maquiladora factories. Labor rights activists were frustrated by their inability to get these cases treated with rigor within the NAALC.

Countries have differing interpretations of what it means to permit workers to bargain collectively. Thus, it might be difficult, indeed awkward given the "right to work" laws in many of our states, for the US to try to subject the right to bargain collectively to international arbitration and sanctions. However, freedom of association, a precondition for collective bargaining, more closely resembles an irreducible standard. This is as "core" as a labor standard gets, and no apologies are necessary for wanting to raise the bar on the obligation of governments to enforce it. If we could upgrade the status of freedom of association in the NAALC, I'm told by activists that it would go a long way toward giving that institution the "teeth" the President pledged the NAFTA side agreements would have. Accordingly, an announcement that you will seek such a change in the NAALC or the successor FTAA institution would be a measured, but significant, step, both substantively and politically.

C. Improve Focus of U.S. Labor Rights Initiatives at International Financial Institutions

In 1994, legislation was enacted requiring our Executive Directors at the World Bank and regional multilateral development banks to use the voice and vote of the U.S. to:

- build discussions about labor standards into the institutions' regular policy dialogue with borrowing countries; and
- establish screening procedures for determining if lending programs or projects are likely to undermine progress toward the development and application of such standards.

Earlier this year, Treasury issued the first annual report to Congress on its efforts to implement the legislation, which is known as the Frank amendment. The report was met with considerable disappointment and criticism in the labor community, which saw it as evidence the Administration is not taking the issue seriously. Without taking sides in this argument, I'd offer a few suggestions.

First, raise the profile of U.S. views on the legitimacy of labor rights as a criterion for inclusion in the IFIs' lending decision-making and policy advisory processes. A major speech at an annual meeting by the Deputy Secretary or Secretary would help combat the bias in such institutions against linking labor rights with international financial assistance on the basis that labor standards are primarily political rather than economic affairs. The World Bank's recent efforts under President Wolfensohn to elevate private sector development through institution building and establishment of good governance and the rule of law create fertile ground for presentation of our case.

Second, it's my impression that the IFIs lack the analytical capacity necessary to support the kind of screening process and policy monitoring/advisory function envisioned by the Frank amendment. The Administration could press actively for the corresponding bureaucratic changes, which could be modeled on steps the World Bank took in the 1980s to gear up to do environmental analyses of projects and policies. Such changes could produce the type of tangible result that would be helpful in reassuring skeptical Members of Congress and labor activists that the Administration is taking its responsibilities under the legislation seriously.

Finally, in addition to continuing to sell other donor countries on the need to adopt a labor rights screening process within the IFIs, set up your own process within Treasury for purposes of identifying a good candidate or two for an initial "no" vote on a lending project or MDB policy you

deem to be inconsistent with core labor standards. This would clear away any doubt that you're taking the legislation seriously.

D. Initiate ILO Review of Export Processing Zone Labor Practices

USTR
The purest example of how suppression of labor rights can distort trade and investment flows can be seen in Export Processing Zones that have differential (i.e., weaker) labor protections than in the rest of the country in question. While not a universal practice, it is not unusual for governments in developing countries to offer foreign investors not only tax holidays, better infrastructure, and less red tape in these Zones but also weaker labor laws or more lax enforcement of them. It is hard to imagine a better illustration of how repression of worker rights can constitute an export subsidy. Unfortunately, not much is known about how prevalent this practice is beyond a considerable body of anecdotal evidence.

Labor
Since these Zones provide compelling evidence of why labor rights are a legitimate trade policy concern (and they are a particularly sore subject for the U.S. labor community), it might make sense for the Administration to launch a campaign aimed ultimately at subjecting them to international discipline. A appropriate first step would be to request the International Labor Organization to conduct a study of the extent to which EPZs embody two-tier labor protection regimes. The ILO has the means to conduct this research. The next step would be for the US to seek the establishment of an ILO Working Party to consider the drafting of a new convention. Finally, given the obvious nexus to trade, the US might seek to use this exercise to establish the greater level of cooperation between the ILO and WTO that has been discussed but never achieved.

E. Miscellaneous

Aside from reauthorizing and perhaps improving the Trade Adjustment Assistance program, other ideas that may be worth considering are: adopting the "No Sweat" principles in US government procurement policy, convening an international conference on production standards (I believe this is already under discussion) and addressing certain concerns about the Multilateral Agreement on Investment. Specifically, the labor community and other activists have criticized the emerging MAI text regarding its treatment of state government procurement and investment decisions (Massachusetts), public pension fund corporate governance policies, and product labeling initiatives.

Memorandum

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Date: September 8, 1997

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D. Initiate ILO Review of Export Processing Zone Labor Practices

The purest example of how suppression of labor rights can distort trade and investment flows can be seen in Export Processing Zones that have differential (i.e., weaker) labor protections than in the rest of the country in question. While not a universal practice, it is not unusual for governments in developing countries to offer foreign investors not only tax holidays, better infrastructure, and less red tape in these Zones but also weaker labor laws or more lax enforcement of them. It is hard to imagine a better illustration of how repression of worker rights can constitute an export subsidy. Unfortunately, not much is known about how prevalent this practice is beyond a considerable body of anecdotal evidence.

Since these Zones provide compelling evidence of why labor rights are a legitimate trade policy concern (and they are a particularly sore subject for the U.S. labor community), it might make sense for the Administration to launch a campaign aimed ultimately at subjecting them to international discipline. An appropriate first step would be to request the International Labor Organization to conduct a study of the extent to which EPZs embody two-tier labor protection regimes. The ILO has the means to conduct this research. The next step would be for the US to seek the establishment of an ILO Working Party to consider the drafting of a new convention. Finally, given the obvious nexus to trade, the US might seek to use this exercise to establish the greater level of cooperation between the ILO and WTO that has been discussed but never achieved.

E. Miscellaneous

Aside from reauthorizing and perhaps improving the Trade Adjustment Assistance program, other ideas that may be worth considering are: adopting the "No Sweat" principles in US government procurement policy, convening an international conference on production standards (I believe this is already under discussion) and addressing certain concerns about the Multilateral Agreement on Investment. Specifically, the labor community and other activists have criticized the emerging MAI text regarding its treatment of state government procurement and investment decisions (Massachusetts), public pension fund corporate governance policies, and product labeling initiatives.

FOR GENE TOMORROW:

1. ~~Low-Wage Worker Sheet~~
2. ~~Job Quality Sheet~~
3. Product Prices and Free Trade
4. What NAFTA-TAA, TAA, and Dislocated Workers Are Specifically?
5. Union Jobs and Exports
6. Story on Low-Wage

LOW-WAGE WORKER FACT SHEET

- **The Largest Decline In Income Inequality In 27 Years.** In 1995, household income inequality fell, as every income group -- from the most well-off to the poorest -- experienced a real increase in their income for the second straight year. One measure of inequality -- the Gini coefficient -- dropped more in 1995 than in any year since 1968.
- **Family Income Up 10 Percent --\$1,000 -- In Last 2 Years For Poorest 20%.** Since NAFTA passed in 1993, the real average income of the poorest 20 percent of families has increased \$994 -- or 9.7 percent -- from \$10,275 in 1993 to \$11,271 in 1995. FYI: Over the same time period, the incomes of the wealthy American households -- the top 20 percent -- increased 2.0 percent, from \$117,086 in 1993 to \$119,453 in 1995.
- **The Number Of People In Poverty Fell By 1.6 Million -- Largest Drop In 27 Years.** The number of people in poverty dropped 1.6 million, from 38.06 million in 1994 to 36.43 million in 1995 -- that's the largest one-year decline since 1968.
- **Poverty Rate Fell To 13.8 Percent -- Biggest Drop In Over A Decade.** In 1995, the poverty rate dropped from 14.5 percent in 1994 to 13.8 percent -- that's the largest one-year fall in the poverty rate since 1984. Since President Clinton's Economic Plan was signed into law, the poverty rate has declined from 15.1 percent in 1993 to 13.8 percent last year -- that's the biggest two-year drop in the poverty rate since 1973.
- **The African-American Poverty Rate Dropped To It Lowest Level In History.** In 1995, the African-American poverty rate declined from 30.6 percent to 29.3 percent -- that's the first time it dropped below 30 percent and its lowest level since data were first collected in 1959.
- **A Higher Share of African-Americans Are Working Today Than Any Time In History.** A larger percentage of African-Americans are now employed -- 59.6 percent -- than at any time in history.
- **Lowest African-American Unemployment Rate in 24 Years.** The unemployment rate for African Americans has dropped from 14.1% in January 1993 to 9.3% today -- that's the lowest the African-American unemployment rate has been in 24 years.
- **Highest Share of Hispanics Working In Two Decades.** The share of the Hispanic population working as high today -- 63.3 percent -- as any other month in the last two decades (when data were first collected).
- **Lowest Hispanic Unemployment Rate in 8 Years.** The unemployment rate for Hispanics has dropped from 11.3 percent in January 1993 to 7.2 percent today -- that's the lowest it's been since 1989.

JOB QUALITY FACT SHEET

(And Other Interesting Factoids)

JOB QUALITY

- **Over Two-Thirds Of The New Jobs Are High-Wage Jobs.** In the last two years, more than two-thirds (68 percent) of the new full-time jobs were in high-wage job categories. More than half of the job growth occurred in the best-paying 30 percent of job categories. [Source: Council of Economic Advisors with Department of Labor's Office of the Chief Economist, "Job Creation and Employment Opportunities: The United States Labor Market, 1993-1996", April 23, 1996.]
- **High-Wage Jobs Have Grown Nearly 4 Times Faster Than Other Employment.** From 1993 to 1995, employment in high-wage job categories grew 7.5 percent. That is nearly 4 times the rate of increase for non-high-wage job categories and more than 3 times the rate of increase for low-wage job categories. [Source: Bureau of Labor Statistics, *Monthly Labor Review*, June 1996.]
 - *New York Times*, 7/21/96: "In 1995, the percentage of new jobs that pay above average salaries was double what it was in 1992, when the nation was just starting to recover from recession. 'The quality of jobs being created is steadily increasing,' said Mark Zandi, chief economist at Regional Financial Associates, an economic consulting firm in West Chester, Pa."
 - *Los Angeles Times*, 3/14/96: "Rather than jobs for hamburger flippers or retail clerks, statistics suggest, a growing share are in areas that tend to pay above average.... 'The occupations that pay the most are growing the fastest,' said Neal H. Rosenthal, the primary author of a new U.S. Bureau of Labor Statistics study on the nation's employment outlook through the year 2005."
 - *Money Magazine*, 8/96: "President Clinton can brag -- and often does -- about creating 8 million new, mostly high paying jobs since taking office."

MULTIPLE JOBHOLDING

- **The rate of multiple job holding has been essentially unchanged during the Clinton Administration.** It has fluctuated around 6 percent -- ranging from 5.6 percent to 6.6 percent -- for the last three and a half years (the only period under President Clinton for which data are available). The multiple jobholding rate is now 5.8 percent in August 1997. [Source: Bureau of Labor Statistics]
- **The rate of multiple jobholding today is LOWER than when President Reagan left office and LOWER than during the Bush Administration** (6.0 percent in June 1996 vs. 6.2 percent in May 1989 and May 1991 -- the only available data points). [Source: Bureau of Labor Statistics]
- **Under President Reagan, the rate of multiple job holding increased substantially --** from 4.9 percent in May 1980 to 6.2 percent in May 1989 (data are the closest to Reagan's tenure available). [Source: Bureau of Labor Statistics]

DISCOURAGED WORKERS

- **The Number of Discouraged Workers Has Dropped Dramatically In the Last Five Years.** In 1992, the BLS estimated that there were *more than one million discouraged workers*. In 1994, BLS changed their methodology of estimating discouraged workers and counted 489,000 in August of that year. In August 1997, the number of discouraged workers was 311,000 -- that's 178,000 fewer than three years earlier and as low as any time since the BLS began estimating the number of discouraged workers each month.
 - *Wall Street Journal*, 8/12/96: "[A] look at the Labor Department's figures show there were more than a million 'discouraged' workers in 1992, and are only about 423,000 today. The department changed the way it calculated discouraged workers in January 1994, and that may account for much of the drop. But the trend over the past 2½ years has clearly been down."

PART-TIME WORKERS

- **Total Part-Time Employment Is Down.** Total part-time employment has fallen from 18.1 percent in 1992 to 17 percent in August 1997.
- **Most Part-Time Workers Work Part-Time Voluntarily.** In August 1997, 22 million workers were employed part-time. In the Current Population Survey, part-time workers are those who usually work less than 35 hours per week (at all jobs). Out of the 22 million total part-time workers, 4 million were working part-time for economic reasons (or "involuntarily") and 18 million were working part-time for non-economic reasons (or "voluntarily").
 - Economic reasons include slack work or unfavorable business conditions, inability to find full-time work, and seasonal declines in demand.
 - Non-economic reasons include, for example, illness or other medical limitations, child-care problems or other family obligations, retirement or Social Security limits on earnings, and school or training.
- **The Share of the Workforce Working Part-Time Has Not Changed Much in Two Decades.** *The share of part-time workers in total employment has stayed roughly constant since the mid-1970s, with cyclical fluctuations around a share of about 17 to 18 percent of total employment.* (Note: Changes in the CPS in 1994 introduce some complications in making simple time series comparisons.)
- **Involuntary Part-Time Is Down.** The share of workers working part-time "involuntarily" has fallen from 5.5 percent in 1992 to 3 percent in August 1997. Not surprisingly, this "involuntary" part-time employment (for economic reasons) normally rises during recessions -- for example, from 4.8 percent in 1981 to 6.2 percent in 1983 and from 4.2 percent in 1989 to 5.4 percent in 1993. It then falls during recoveries.
 - The share of workers working part-time "voluntarily" has risen, from 12.6 percent in 1992 to 14 percent in August 1997. Note: There was a big jump in 1994, which is largely a result of the change in the CPS.

September 18, 1997

Dear [House Member]:

On Tuesday, the Clinton Administration transmitted to the Congress the Export Expansion and Reciprocal Trade Agreements Act of 1997. This proposed legislation renews the partnership between the Executive Branch and the Congress, first enshrined in law more than 60 years ago, under which the United States has led in the development of a fairer and more open world trading system. It grants the same negotiating authority made available to President Ford and every President since, while ensuring that the Congress is actively involved at all stages of the process -- before, during, and after any trade negotiations. This renewal of the President's traditional negotiating authority is critical to our efforts to expand economic opportunities for American workers, farmers, and companies.

Notwithstanding the significant benefits that will result from this proposed legislation, critics have made a number of assertions that are not accurate. To set the record straight, I have attached responses to these charges. I believe that a clear discussion of the facts will help enable us to work together in the coming weeks in support of the critically important trade, labor, and environmental objectives we share.

Sincerely,

Charlene Barshefsky

[name and address]

Attachment

Claim #1: This request for fast track authority is a “step backwards” from previous grants of fast track authority and is actually worse than the authority President Bush received.

Response: Wrong. This proposed legislation permits President Clinton to do everything that past Presidents have done with fast track authority.

At the same time, this proposal does contain new provisions never before included in any fast track legislation. These include:

- A principal negotiating objective on worker rights to ensure that we continue to press this cause aggressively with other countries.
- An explicit reference, for the first time in any fast track bill, to the importance of addressing child labor abuses.
- Also for the first time in any fast track bill, a principal negotiating objective to promote greater environmental protection in other countries.

The critics wrongly claim that an earlier Congressional Research Service analysis somehow addresses this legislation. That is simply untrue. The CRS statement was not based on the language of this bill, and it is not appropriate to cite it as a relevant analysis here.

The Administration’s legislation is a step forward, not backward. It helps us to compete effectively in the global economy, to advance confidently into the 21st Century. We face a critical choice. We can either shape the global economy to America’s advantage or turn back and fail to compete for new business, new contracts, new jobs. This legislation moves us in the right direction.

Claim #2: The proposal moves the consideration of labor and environmental issues to the World Trade Organization.

Response: Wrong. The United States remains free to address these issues in every way we want -- whether through bilateral, regional, or multilateral talks -- and we will continue to do so.

The legislation does contain a principal negotiating objective urging continued and expanded efforts on labor and environmental issues in the World Trade Organization -- while also pressing for stronger International Labor Organization action on core labor standards.

For years, those advocating more attention to labor and the environment have demanded that these issues *should* be addressed in the WTO. And this Administration has fought hard, in the face of strong opposition, to try to accomplish just that. So it is surprising that the proposed legislation now is being criticized for advocating a stronger WTO role.

Claim #3: This request would preclude the NAFTA side agreements from being included in future trade agreements and from receiving fast track consideration.

Response: The President retains full authority to negotiate tough labor and environmental side agreements. The critics' charge reflects a fundamental misunderstanding of fast track. Fast track authority is needed only where a trade agreement requires changes to U.S. law. Neither the NAFTA side agreements, nor any such agreements envisioned with other countries, require any changes to our own labor or environmental laws.

The President already has stated his intent to negotiate strong labor and environmental agreements with Chile, which has agreed to enter into such agreements with us. We will consult closely with the Congress as these negotiations proceed. But these agreements will not need fast track approval -- because our laws will not change.

Claim #4: The request fails to deal with certain important trade issues; food safety, drugs, and worker retraining are not mentioned as principal negotiating objectives.

Response: The proposed legislation explicitly instructs U.S. negotiators to address the protection of our own health and safety measures as they pursue the listed negotiating objectives. We are committed to continue applying our own strong standards to protect the health and safety of our citizens.

This Administration is committed to a strong, well-funded program to combat the flow of drugs and improve interdiction and enforcement. Expanded trade has not meant any relaxation of our commitment here; just the opposite, as border inspections have increased. Engaging other countries on trade enhances our ability to work closely with them on other important issues as well, including through joint efforts to counter narcotics trafficking.

Worker retraining and assistance has been and remains a top priority of this Administration. We have doubled funding for dislocated workers, helping an additional 300,000 workers per year get training or job search assistance. But these are initiatives we can take on our own. We do not -- and should not -- negotiate our domestic assistance programs with other countries, and therefore no negotiating objective is necessary.

The list of negotiating objectives is not intended to be exhaustive; it simply reflects some of the key issues we need to address in future trade negotiations.

Claim #5: The request no longer includes the objective of addressing unfair trade practices.

Response: Nothing could be further from the truth. In fact, the very first principal negotiating objective describes at length the plan to address "trade barriers and other trade distortions" and a wide range of unfair foreign government policies and practices. This is echoed in nearly every other negotiating objective -- from agriculture to services -- spelled out in the proposal.

Moreover, to ensure this is clearly understood, the legislation also requires our negotiators to make certain that the United States retains the ability to "enforce rigorously" our own laws addressing unfair foreign trade practices.

This charge appears to refer to the fact that this proposed legislation does not repeat a 1988 Trade Act provision on GATT rules covering unfair foreign trade practices, such as dumping and subsidies. This Administration already has made good on that front by successfully concluding tough agreements on dumping and subsidies in the Uruguay Round. Our clear commitment to address unfair trade practices does not depend on our reiterating language from a statute enacted nine years ago.

FAST TRACK LABOR/ENVIRONMENT

Q: Your fast track proposal seems weak on labor and environment. Didn't you forfeit those concerns to get Republican support?

- No President has been stronger on labor and environmental issues than me. I have fought for stronger international standards in the ILO, WTO, the World Bank, the IMF, the UN – we have not missed an opportunity to press these concerns. I negotiated labor and environment side agreements to the NAFTA. No President had ever done anything like that. I remain committed to these issues.
- As to the bill, I think Democrats and everyone needs to review it carefully. This bill contains more provisions for labor and environmental issues than any previous fast track bill. For example:
 - A principle negotiating objective on worker rights that ensures we continue to press other countries to improve labor rights abroad.
 - A first-ever reference to child labor, reflecting the special concern we have for this issue.
 - For the first time ever, the bill includes a negotiating objective on the environment. This is an unprecedented step.
 - The bill includes a special instruction to negotiators to promote health and safety conditions and to ensure that trade agreements do not lower our environmental standards.
- In addition, I have broad executive authority to reach labor and environmental side agreements. I have committed to negotiate these agreements in the context of free trade negotiations, when appropriate.
- This is a good bill – and I am confident we will make more progress on labor and environmental issues if we engage these countries in trade negotiations. Chile will reach labor/environmental side agreements with us if we negotiate a trade deal. If we don't, it probably won't reach side agreements. We need to enact this bill to advance all of our objectives: trade, labor and the environment.

TARGETS AND TIMETABLES:

Emissions in 2005 are lower than in 2004 and decline in absolute amounts every year.
Emissions for 2010-2015 average 110 percent of 1990 levels.
Emissions for 2015-2020 average 105 percent of 1990 levels.
Emissions for 2020-2025 average 100 percent of 1990 levels

Countries with emissions levels below the target levels would be able to “bank” emissions and use or sell the credits in future years

FLEXIBILITY TO MEET COUNTRY TARGETS:

Every country would be able to establish its own approach to meeting the agreed-upon targets and timetables.

COMPLIANCE:

Countries not in compliance with their legally-binding target would face a series of increasingly onerous penalties. First, they would be banned from selling credits via international emissions trading and future emissions limits would be reduced by the amount of overage. If still out of compliance after two years, they would pay a fine based upon the amount of non-compliance.

INTERNATIONAL EMISSIONS TRADING:

All nations with binding targets and in compliance with their targets through the last emissions budget period could trade emissions credits within and between years. A neutral third party would act as intermediary to ensure that the participants met their obligations under the trades, to record the trading activity, and to provide an end-of-period settling up of trading activity.

JOINT IMPLEMENTATION:

The joint implementation pilot program would be continued through 1999. It would be followed by a more wide-ranging program beginning in 2000, with tradeable credits granted for legitimate JI emissions reductions generated after January 1, 2005.

DEVELOPING COUNTRY OBLIGATIONS:

A “Kyoto Mandate” is established that calls for developing countries to accept quantifiable emissions limits that are negotiated by the end of 1999. These limits do not have to match up exactly with those imposed on developed countries, but they must provide for a seamless transition from no limits on the least developed countries to Annex I-style limits on those most developed of the developing countries (e.g., those petitioning for OECD membership). The emissions limits imposed on developed countries would not go into effect unless every developing country responsible for at least 0.5 percent of worldwide emissions agrees to such a transition scheme. That is, the emissions limits on developed countries would be “linked” to the acceptance of legally binding targets and timetables on the largest emitters among the developing countries (other developing countries also would be encouraged to accept the limits, but the

"linkage" only depends on the largest emitters taking part). (Note: The "Kyoto Mandate" should not be part of the protocol, but be a separate document not subject to ratification. If included in the protocol, the Mandate would have to be ratified before going into effect, leading to a delay before developing nations began negotiating on targets and timetables.)

DOMESTIC IMPLEMENTATION

The U.S. would implement its emissions reduction obligations under the climate treaty via a domestic emissions trading system, imposed at the point where a fossil fuel enters the production stream (e.g., at the minemouth for coal, at the natural gas collection point, where crude oil is imported or enters a refinery, and similar points for other fuels) and where other greenhouse gases enter the atmosphere, subject to administrative ease. Prior to 2010, the U.S. could test the workability of such an "cap and trade" system by establishing a pilot program for the electric generating industry (with permits required when the generating facility purchases the fossil fuel).

Permits could be auctioned, with the revenues generated used to reduce individual taxes, compensate lower-income individuals for higher energy prices, support R&D in energy-efficient and low-carbon technologies, and to provide transition assistance to affected workers. (Alternatively, the permits could be distributed to meet similar goals.)

The U.S. would also actively engage in an intensive technology program to develop and diffuse low-carbon and energy efficiency technologies. This program would have the following components:

- Creation of a "virtual national lab" to coordinate research into the scientific aspects of climate change to increase our knowledge base about the scope of the problem and the adaptations that could be made. The National Labs would cooperate with State universities in this endeavor.
- Designation of several national laboratories to pursue "breakthrough" technologies that hold the promise of substantially reducing greenhouse gas emissions through low-carbon energy sources. Each laboratory designated would be given one technology to pursue, with the competition among labs intended to force technological progress.
- Ramp-up spending on energy-efficiency and renewable energy technology development and deployment. Large prizes for major advances in these areas could be awarded and tax subsidies for these technologies might be appropriate policy choices.
- Establish an "Energy Efficiency Extension Agent" program, in conjunction with utilities and State universities. The goal would be to have several thousand agents located around the country, with every one of the largest 100,000 industrial and commercial facilities visited by an agent and given an "energy audit" in the first two years of operations. These agents would be experts in specific industries, who would be able to steer firms toward adopting more energy-efficient equipment.
- Continue funding for PNGV, subject to the promised milestones being met. Expand PNGV to diesel engines.
- Installation of 1 million solar roofs by 2010. The Federal government will act as a catalyst to generate greater adoption of solar technology by the private sector.
- Establish a Federal Energy Bank to make revolving fund loans to Federal agencies for the installation of energy-efficient property. Loans would be repaid from energy savings.

M E M O R A N D U M

To: Mack McClarty

From: Democratic Leader Gephardt

Subject: Fast Track

Date: August 24, 1997

CC: Sec. Albright, Amb. Barshefsky, Sandy Berger, Erskine Bowles, John Podesta, Jay Berman

Gene —
Fyl.
✓

Per our recent conversation, I wanted to provide you with a report on my trip to South America: Chile, Argentina and Brazil.

Although it was a quick trip resulting in roughly 2 days of discussions in each country, I was able to meet with a broad cross-section of public and private individuals. The Presidents of each country as well as many of their principal ministers met with me. As well, I met with the American Chamber of Commerce in each country and their labor leaders. I also had lengthy discussions with environmental ministers and NGOs. Finally, in Chile and Brazil I was able to visit local neighborhoods and factories to have discussions with average citizens.

As a first point, Chilean arms sales and the granting of non-NATO ally status to Argentina were part of every discussion I had with the Presidents and the foreign ministers. President Frei was deeply concerned about the status of Argentina — you are well aware of the relations between the two countries. As Ambassador Guerra said, in all of his meetings with President Frei, he had never seen him as direct as when the question of arms sales arose. I know that the Embassy has provided a briefing to the Administration on this issue.

I came away with a much greater appreciation for the vibrancy of South America's markets. Sitting in traffic jams one quickly understands that the markets are growing at a tremendous pace. Traveling through communities, one understands that if their wages and living standards can be improved, there would be tremendous markets for our products and the gradual reduction in the downward wage and job pressures in the U.S.

The trip also highlighted the fragility of the political systems in these countries having rejected military rule only in the recent past. The former political systems did little or nothing to address the deep economic disparities in these countries. Our goal must be to promote and enhance democracy and the equitable distribution of economic growth. We must avoid rapid change that does not allow these countries to adopt transitional policies to ensure that all their people benefit, not just the privileged few.

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I also came away with the clear understanding of the tremendous economic difficulties that face the people of these countries. Chile ranks as number two, right behind Brazil, in terms of income inequality in South America. In one of my meetings in Chile, I was told that the top 20% of Chileans control 54% of the GDP. The bottom 20% controls only 4% of the nation's GDP. This is despite the tremendous expansion of trade in the region. It's clear to me that the benefits of more open trade has not trickled down enough to middle class citizens and those struggling to get into the middle class. In many ways, it is analogous to the challenges that we faced during the NAFTA negotiations.

President Frei pointed out that the Chilean-Canadian FTA includes provisions on labor and the environment that are stronger than those contained in the NAFTA. While this language is limited in scope (it only covers child labor, health & safety and the minimum wage), the President appeared willing to include language that required enforcement of domestic laws. This is similar to the discussion I had with President Frei in 1994 at the Blair House which prompted then Congressman Richardson (now U.S. Ambassador to the UN) and I to jointly introduce a Chile-only fast track.

Indeed, President Frei said that the Chilean-Canadian FTA went farther than the NAFTA by allowing the imposition of fines in these two important areas. That is movement in the right direction although the failure of these issues to be included in the core agreement, the arbitrary cap on the level of fines and the failure to have an enforcement mechanism for collection are serious flaws, in my opinion.

I should also point out that the Chilean Labor Minister indicated that the official position of Chile is that labor and trade issues are linked. He said it is "reasonable to develop a road to improvement that is gradual and measurable."

As you well know, prior to entering into negotiations with the U.S. for the NAFTA the United States demanded that Mexico enhance its intellectual property laws. I believe that President Frei's commitment to the package of labor law reforms that he has offered could serve as a similar sign of commitment by Chile to its readiness to engage in trade negotiations with the U.S.

The Argentines were also very supportive of an agenda that included labor and the environment. The pressure of increased competition in the region is putting pressure on them to liberalize their laws. They would welcome, in my opinion, an ability to provide a backstop to their laws so that they can continue to maintain, as well as increase, their standard of living.

The Brazilians appear more focused on deepening Mercosur. They clearly are in the drivers seat in this effort in the region and would prefer to continue to drive the process.

Both Argentina and Brazil want more time to move from Mercosur to the FTAA. They need time to adapt to a more open trading system.

As I indicated to you and the President, I believe that we should discuss the possibility of providing fast track for trade negotiations with Chile alone. If the final agreement includes full

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coverage of labor and environmental issues in the core agreement, with full enforcement, I believe that that would serve as a model for future agreements. I would find it difficult to believe that, at the end of the day, Republicans and the business community would oppose the requirement that our trading partners enforce their domestic laws and the development of a growing middle class for our products as well as the protection of the environment. At every American Chamber of Commerce event I attend in other countries, our companies indicate that they are abiding by the same standards in all their worldwide operations – the provisions that I am arguing for could only stand to enhance, not undermine, their competitive position.

I have now met privately with the President on two occasions to indicate that I want to unite Democrats on this issue. In 1991, I negotiated for many months with President Bush and his Administration to allow him to receive fast track authority. I want to work with President Clinton to give him fast track authority as well.

But, I am unwilling to abandon the principles and outlook that I have developed over my 20 years in Congress. I do not believe that the NAFTA has been a force for progress. We can, and should, do better.

“DIRECTLY RELATED TO TRADE”

Q: What does it mean to say that any labor/environment provisions brought back on fast track must be “directly related to trade”?

General Points (To Be Included in All Answers)

- The President is committed to pursuing three objectives: 1) to open foreign markets and create good U.S. jobs; 2) to promote labor rights; and 3) to promote responsible environmental development. Throughout this debate, our goal has been to ensure the President has the capacity to pursue all three objectives effectively.
- The Administration’s bill gives the President ample latitude to accomplish his labor/environment objectives. He has many tools at his disposal:
 - Trade Agreements. The bill permits labor/environmental provisions “directly related to trade” to be brought back to Congress under fast track authority. This is only one tool he can use.
 - Side Agreements: The President has extensive executive authority to reach labor/environment agreements with countries. These agreements do not require Congressional approval. In the context of future free trade agreements, we have committed to conclude companion labor/environment agreements, when appropriate. Chile has already agreed to enter such agreements.
 - Other Agreements: This Administration has done more than any other to press countries to improve labor rights and environmental protection – and we will continue to do so, whether through the ILO, the WTO, the UN or international financial institutions. We should be concerned about improving the conditions in all countries, not just in free trade partners.
- The important point is to secure fast track authority. If we pursue trade negotiations, we have a much better chance of engaging these countries on labor and environmental issues. Rejecting fast track will not advance our interests on labor/environment.

Q: But what does the term “directly related to trade” mean?

Option 1: Narrow Definition

- Our consultations to date suggest it would allow a discrete set of provisions, with the precise definition still to be addressed. However, there is also bipartisan agreement that the President has extensive executive authority to reach strong labor and environmental side agreements – and we have committed to reach these, when appropriate.

- [If pressed: Provisions could include those establishing the principle that countries should not lower their environmental standards to attract foreign investment or those relating to the ability of a country to use sanitary/phytosanitary measures as a disguised form of trade protection.]

Option 2: Broad Definition

- The term means an agreement could address derogations from a country's labor or environmental laws with the intent of gaining a competitive advantage in trade. However, we will need to consult with Congress on the precise meaning in the days ahead.
- Regardless how these discussions proceed, we believe the combination of side agreements and other measures already give us much latitude to pursue our labor/environmental objectives effectively. Our test is whether the President can pursue these objectives, not which precise formulation emerges.

Option 3: To Be Negotiated

- We have already had some discussions with Congress about the term, and we will continue to discuss it in the days ahead.
- We think it is most productive not to conduct these negotiations in public.
- The combination of side agreements and other measures already give us much latitude to pursue our objectives. In the end, our test will be whether the President can pursue his labor/environmental objectives effectively.

Option 4: Need Not Decide Now

- At this point, the only free trade agreement we envision is with Chile – and it has agreed to enter labor/environment side agreements, which would not require fast track approval. So this issue is not implicated by any agreements we now envision.
- Should we seek to negotiate other free trade agreements, we would obviously need to consult with the Congress on all issues surrounding the negotiation, including which labor/environmental provisions might be deemed “directly related to trade”.

CONTENT OF SIDE AGREEMENTS

Q: What provisions will be contained in any side agreements you reach?

A: That could vary among countries. Different countries would have different conditions and different needs. As a general matter, agreements could include provisions to:

- Promote better enforcement of a country's labor and environmental laws and regulations.
- Encourage greater transparency and public disclosure about a country's labor and environmental standards and performance.
- Provide greater technical assistance to countries to improve their labor rights and environmental protection.

We would consult extensively with Congress about our approach in any individual case.

LINKAGE BETWEEN TRADE AGREEMENT/SIDE AGREEMENTS

Q: Do you commit to reach side agreements with all future free trade agreement partners?

A: The only bilateral free trade agreement we currently envision negotiating is with Chile. We have already said we would negotiate labor and environmental side agreements in that context – and Chile has agreed to do it.

Beyond that, our approach would depend on the free trade partner. An agreement with England merits a different approach than one with a developing country. It makes no sense to adopt a cookie cutter approach. But we would move forward only after full consultation with Congress.

SANCTIONS AND SIDE AGREEMENTS

Q: Would you make any future labor/environmental side agreements enforceable through trade sanctions?

General Points (To Be Used in Any Answer)

- At this time, the only bilateral free trade agreement we envision negotiating is with Chile. Chile has agreed to enter labor/environment side agreements enforceable by monetary fines. We think that will provide sufficient enforcement.
- Therefore, the question of other bilateral free trade agreements – let alone how they would be enforced – at this point is pretty theoretical.

Q: But if there were future side agreements, would you consider using trade sanctions?

Option 1: No Sanctions

- We believe these side agreements can be enforced through monetary fines or other appropriate methods.

Options 2: Sanctions Possibly

- Our preference would be to enforce the side agreements through monetary fines or similar methods, if they can be effective. If they cannot, we would consider using trade sanctions to collect monetary fines, as we have done in past agreements. We would pursue this approach only after extensive consultation with Congress.

Option 3: Yes Sanctions

- If necessary to ensure the side agreements are enforceable, we would be prepared to negotiate agreements ultimately enforceable through trade sanctions.

Option 4: No Decision Needed Now

- Question is highly theoretical. Chile is the only bilateral free trade negotiation envisioned, and we do not feel trade sanctions will be necessary to enforce the side agreements.
- We would need to consult with Congress extensively before we pursue another bilateral free trade negotiation. If that situation arises, we will consult on this question as well.

THE WHITE HOUSE
OFFICE OF LEGISLATIVE AFFAIRS
SENATE LIAISON

--- FAX COVER SHEET ---

NOTE:

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CONFIDENTIAL AND INTENDED FOR THE RECIPIENT ONLY.**

DATE: 9/11

TO:

Mr. S. A. Green

FAX:

FROM:

Paul Carey

Barbara Chow

Elisa Millsap

Tracey Thornton

Ben Freeland

Jeff Forbes

✓ Mike Williams

Rick Gonzales

Stacey Rubin

PHONE (202) 456-6493 FAX (202) 456-2604

RE:

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09/11/97

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202 395 4656

HISTR CONG AFFRS

002/003

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COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES
 WASHINGTON, DC 20515-6348

September 11, 1997

A.L. SINGLETON, CHIEF OF STAFF

JAMIE MAYE, MINORITY CHIEF COUNSEL

The Honorable Charlene Barshefsky
 United States Trade Representative
 600 Seventeenth Street, N.W.
 Washington, D.C. 20506

Dear Madam Ambassador:

As the President and his Administration make final decisions on a fast track proposal, I thought I should share with you my current thinking about this issue in light of recent intense public and Congressional debate. As you know, there are many Democratic Members who are extremely concerned about how the President's fast track proposal addresses labor and environmental issues. Indeed, the votes of many Democrats on fast track hinge in large part on how these issues are handled. In light of these Democratic concerns, I am now considering introducing a fast track proposal of my own that would address these concerns in a way that could garner broad Democratic support.

While labor and environmental issues are important, I believe, unfortunately, that in the debate on fast track inadequate attention has been given to how we as a nation can ensure that good, productive jobs are available for all Americans. While expanding international trade is one part of the solution to creating good jobs in this country, it is not enough since not all Americans will have the opportunity or the skills to benefit from the new jobs created by more trade. At the same time, other Americans will lose their jobs because of such trade.

In light of this, it is my personal view that we should do all we can to provide the President with the authority he needs to increase our trading opportunities, provided that this is accompanied by a domestic jobs initiative that reaches out to all Americans. Such a jobs initiative should be targeted initially on rebuilding our nation's infrastructure, particularly in urban

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HSTR CONG AFFRS

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The Honorable Charlene Barshefsky
September 11, 1997
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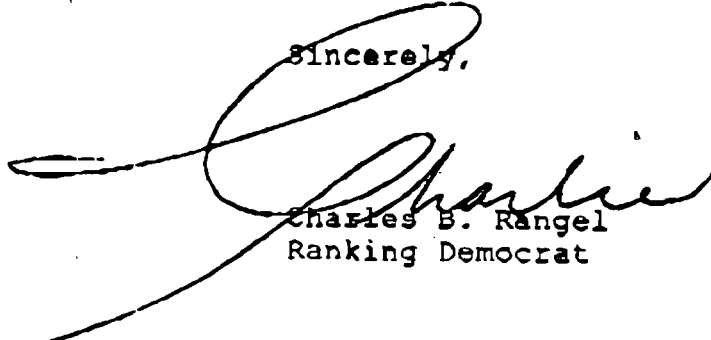
areas. A sound infrastructure in our cities can provide an anchor for, and is indeed essential to, expanding international trade.

I previously have discussed these ideas with you, Jay Berman, and John Hilley, but wanted to draw them to your attention again because I feel so strongly about them. I believe that incorporating a vision on jobs for all Americans into fast track proposals moving through Congress is essential for building strong bipartisan support on fast track. Such support, particularly on the Democratic side, appears to be lacking at this time.

I intend to raise these matters in a Ways and Means Democratic caucus on Tuesday and will also be discussing them with the House Democratic leadership to seek their views and guidance before proceeding further. I would hope that the Administration could give additional attention to these ideas in the days ahead.

I would be pleased to discuss these matters with you at any time.

Sincerely,



Charles B. Rangel
Ranking Democrat

CBR/bwc

cc: The Honorable William J. Clinton
The Honorable Robert E. Rubin
The Honorable William M. Daley
Mr. Erskine Bowles
Mr. Jay Berman

RICHARD A. GEPHARDT
MISSOURI
DEMOCRATIC LEADER

H-204 U.S. CAPITOL
202-225-0100

Congress of the United States
House of Representatives
Office of the Democratic Leader
Washington, DC 20515-6537
February 26, 1996

Dear Democratic Colleague:

Shortly, President Clinton is expected to request that Congress grant new fast track trade negotiating authority. I am writing to seek your support for a forward looking agenda that will ensure that future trade agreements promote progress in living standards, environment and human rights here in the U.S. and around the globe.

This is an important topic. Article One, Section Eight of our Constitution vests exclusive authority over international commerce in the legislative branch. In recent years, Congress has delegated more authority to the Executive Branch as our trade negotiating agenda has expanded beyond tariff and quotas issues.

However, delegating trade negotiating authority should not be an abdication of the important role that Congress has in this matter. The Constitution demands, and the American people — our constituents — expect that we will fight for their rights and interests in all venues. Any delegation of legislative authority over international trade that occurs should be based on a complete and thorough debate of the issues and a positive grant of authority.

In my view, the broad delegation of legislative authority involved in fast track isn't a privilege to be granted lightly: it has to be earned.

In 1991, I supported President Bush's request for fast track authority because I believed, as I do now, that we should seek to expand trade. We can't shy away from the world trading system. Exports support millions of jobs here in the U.S. We've got to continue our efforts to pry open foreign markets to ensure that American farmers, workers and businesses will have the opportunity to sell their competitive products abroad.

However, focusing on exports alone fails to recognize that our nation's trade deficit has reached historic levels fueled by an increasing flood of imports. Too many ideologues of the old status quo are not willing to address the impact of imports. The fact is that imports are having a tremendous impact on U.S. jobs and living standards. Last year, our nation's trade deficit reached a new record with a \$166.6 billion deficit in goods. Many Americans see themselves as victims, rather than beneficiaries, of recent trade agreements.

As well, many of our nation's corporations are using the pressure of international competition and the threat of moving jobs out of our country to limit wage and salary increases and as a tool in fighting union organization efforts. During the debate over NAFTA, a Wall Street Journal poll of executives found that a majority of executives from large companies intended to shift some production to Mexico and that a large number intended to use NAFTA "as a bargaining chip to keep down wages in the U.S." This trend continues: A recent survey provided to the U.S. Department of Labor found that in more than half of union organizing drives

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We must not negotiate away our jobs and our living standard based on outdated theories and assumptions about trade and international economics. Defenders of the status quo seek to define the debate on trade as being about either protectionism or free trade. Labels denigrate the debate and short-sell the interests of our people. What's needed is an honest debate about the real issue. We need a debate about the facts and our future, not motives and past theories.

The debate should be about how we continue the process of economic integration in a way that is truly a force for progress for all involved. We must continue to provide U.S. leadership without selling out average Americans who work hard, play by the rules and simply want a fair chance to succeed.

We must be unwilling to compromise or negotiate away the economic interests of our people. According to a recent survey, the public is growing increasingly frustrated with trade treaties and agreements which a majority believes are sacrificing our jobs, opportunity and economic future based on elite establishment projections that, in the long term, we'll all be better off. Used in this way, the long-term is simply a debating point: a point in time that may never come.

The primary focus of the current debate over fast track negotiating authority is the goal of expanding the North American Free Trade Agreement (NAFTA) first to Chile and, ultimately, throughout all of South and Central America.

During the debate over NAFTA, I traveled around my District and across the U.S. talking to farmers, workers and businesspeople to understand what competitive pressures faced our country. I visited Mexico several times to see for myself what was happening on the ground. I flew to the U.S. side of the border and drove across unannounced so that I could get an unvarnished view. I talked to hundreds of average people. I walked through scenes of environmental and health devastation. I knocked on the doors of many companies asking to see and understand their operations. I didn't want to rely simply on statistics or theories. I wanted to *really* understand what was necessary for everyone to benefit.

I supported fast track in 1991 because I believe that we needed a NAFTA. We can't ignore Mexico. Closing off our borders isn't an option. The question then, and now, is how do we make NAFTA a real force for progress. How do we ensure that an agreement promotes, not undermines living standards, health and safety for all our people. I believed that it was in the deep self-interest of the U.S. to reach an agreement that addressed the issues in a way that would promote fundamental, long-term change.

Recently David Bonior and I had the opportunity to visit Mexico to review first hand the results of NAFTA. Rather than improving conditions, the NAFTA has validated Mexico's system of labor relations, wage setting mechanisms and environmental enforcement that has damaged the standard of living, health and safety of the Mexican people. We saw 21st century technology combined with 19th century living and working conditions. The wages and living conditions of average hard-working Mexicans haven't improved. They've declined. Real manufacturing wages are now 25% lower than they were when NAFTA began.

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Since 1980, real manufacturing wages have dropped by about 50%. Everyone clearly agrees that real wage declines have accelerated due to the peso crisis. However, it's important to recognize that real wages were stagnating prior to the peso crisis while at the same time worker productivity continued to grow. Workers simply aren't being compensated in relation to their efforts. The peso crisis exacerbated the real wage declines but the problem of inadequate compensation has much deeper roots in the Mexican economic and legal system.

There has been a tremendous increase in the number of maquiladora plants and an almost 50% increase in the maquiladora work force along the border since NAFTA began — plants that are almost exclusively created to send their exports into the U.S. During the 1993 debate on NAFTA's passage, proponents in Mexico and the United States said that NAFTA would eliminate the incentive to create maquiladoras. Investment in maquiladoras in the state of Baja California has surged by more than 35% over the past year alone. Since the start of NAFTA, hundreds of thousands of jobs have been shifted to maquiladora plants. These jobs pay wages on which it's almost impossible to raise a family. We met family after family who said that they simply couldn't make ends meet — a gallon of milk costs almost three hours of wages. One mother told me her children were lucky if they got to drink milk once a week. Almost everyone in the family is forced to work simply to get by.

Mexican workers are viewed simply as producers, not consumers. Many of the maquiladoras experience turnover rates of 100% or more. As wage increases are virtually nonexistent, workers have little recourse — many act like economic nomads going from plant to plant hoping for the slightest advantage to survive. Some return home. Many decide that the only ticket to a better life is to cross the border into the U.S. No one can live on much more than a survival basis working in these plants.

We drove by industrial parks where the companies continue to dump their toxic wastes at night into the rivers where people bathe. We saw furniture plants using highly toxic solvents and finishes that once operated in California and throughout the U.S. which had moved to Mexico because, as the General Accounting Office pointed out, of lax environmental enforcement. We revisited an abandoned lead recycling facility that I had visited on an earlier trip to the area. Tarps now covered the huge mounds of waste, yet nothing has been done to really clean up the site. Just feet away a dairy farm continues to operate. The milk from these cows is drunk by the kids in the area — those that can afford it. High blood levels of lead continue to plague the surrounding communities.

Not only have things not improved in the border area, but since NAFTA they've gotten worse. The only positive sign for me was that the Mexican people continue to have hope. They are proud people who simply want a chance to provide for themselves and their families. While the border is only miles away, and it beckons far too many people, most want to stay in Mexico because they love their country. Yet, many find that the pressures of daily life along the border and throughout the country are too great. Countless people continue to cross the border into the U.S. every day with the hope of a better life.

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Some are pointing to the fact that we need to recognize the impact that the peso crisis has had in Mexico. I agree that the impact has been devastating. But, the negative trends under NAFTA in our trade balance and in real wages for Mexican workers were in place before the peso crisis hit. Months before the December 1994 peso crash, the U.S. trade surplus with Mexico had already turned into a monthly deficit. And, as I wrote to the President before the peso crisis occurred, the crisis was foreseeable. I warned, as many others did, about the overvalued peso and the threat to our economy that would result if the issue was not dealt with during the negotiations.

Some are also highlighting the repayment of the billions of dollars in loans that we made to Mexico as part of the peso bailout as a real sign of success. Clearly, we're all pleased that Mexico has refinanced these loans. But let's recognize that Mexico has repaid this loan in two ways. First, they've shifted some of their borrowing to other countries. Second, we ran a more than \$16 billion trade deficit with Mexico last year alone and have amassed more than \$33.6 billion in trade deficits with Mexico since the peso crisis began. In other words, many American workers have repaid Mexico's loans with their jobs and living standard.

As I said, I supported President Bush's request because I believed that we should seek to negotiate new trade agreements that expand opportunity. I spent several months negotiating with President Bush and his Administration about what our objectives should be. I believed then, as I believe now, that President Kennedy was right when he said in his first inaugural address: "Let us never negotiate out of fear, but let us never fear to negotiate." I'm confident that if we understand and fight for our objectives, we can reach good new agreements.

But there is a key difference between the debate in 1991 and today. In 1991 we were dealing with abstract ideas. Now we have had three years of real life experience under a specific set of rules embodied in the NAFTA. I believe that it would be a fundamental mistake to simply extend the current NAFTA. It simply isn't working.

Why isn't NAFTA working?

The single biggest flaw in the NAFTA was its failure to adequately address industrial relations — the right to strike, the right to organize and the right to freely associate. We've seen clearly that the failure to adequately enforce such core labor laws in Mexico means that Mexican wages have failed to rise. Nationally, wages are basically capped under the agreement known as "El Pacto." Additionally, as numerous workers in Tijuana told David Bonior and me recently, the maquiladora owners also privately set minimum and maximum wages so that they don't compete for workers on this basis.

While U.S. businesses were able to demand a provision in the NAFTA that requires that Mexico enforce its intellectual property laws, and is able to use trade sanctions, criminal penalties and impoundment of goods to enforce these measures, there is no similar provision for enforcement of Mexico's labor laws or, for that matter, Mexico's environmental laws. Thus, if Mexico's failure to enforce its labor laws results in Mexican worker wages being held down and their rights abrogated, there is little that we can do other than complain. So far, the few complaints that have been brought under the labor side agreement have made little or no impact.

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Five cases concerning Mexico have been brought under the labor side agreement for labor violations in Mexico. As a result of these cases, no union has been recognized in Mexico. There has been no noticeable change on the ground. Take for example the cases at General Electric in Ciudad Juarez or Honeywell in Chihuahua where workers were fired trying to organize independent unions. Those unions remain unrecognized. Those workers have not been reinstated.

The workers that David and I talked to told stories very similar to the ones we heard during the NAFTA negotiations. Worker after worker told us how there was no ability to try and fight for better working conditions. If you complained, you were fired. Many told how the maquiladora owners kept lists of "problem" employees who were blacklisted because of their complaints. Many are arrested for their activities on trumped up charges.

Several workers told us they didn't even know if there was a union contract or, if there was, they had no idea who their union representative was. The union was a sham, but there wasn't anything they could do about it.

If we don't have an effective way of addressing this problem, Mexican workers aren't going to get a fair deal. They won't be fairly compensated for their hard work. We won't create and expand the middle class that can buy our products and alleviate the downward pressure on our people's wages. Labor rights is a trade issue. It has an impact on Mexican workers and our workers. The only truly effective way of dealing with this issue is being able to resort to trade sanctions if all else fails.

The promise of NAFTA was to be greater opportunity and increased standards of living in all three countries. That has not been the case. If Mexican workers can't bargain for higher wages, they won't expand the middle class that can purchase U.S. products. Indeed, since NAFTA, the percentage of Mexicans considered "extremely poor" rose from 31% in 1993 to 50% in 1996. Two out of three Mexicans now report that their personal economic situation is worse than before NAFTA. And, the downward pressure on our wages will continue.

As we seek to ensure adequate enforcement of labor laws, we need to seriously examine the need to provide for cross-border organizational rights for our labor organizations. Because of government dominated labor movements, coercion, and inadequate enforcement structures, it may be that the situation could be materially improved through the assistance of U.S. or other international labor organizations. As our businesses are able to form new alliances and have access to the enforcement process, our labor unions should have the same rights as well.

In the area of the environment, the increase in post-NAFTA border production has increased the border population and industrial and toxic emissions and waste. Yet, the promised improvements to the existing serious border health and environmental damage have not occurred. The NAFTA environmental side agreement is simply inadequate to the task.

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To date, less than a handful of projects have been approved for funding by the NADBank and through the BECC. While projects have languished before these organizations, the health and safety of people on both sides of the border deteriorates. These organizations must begin to really fulfill their intended purpose and focus on the needs of the people live on and near the border — not just companies that are seeking to have their costs underwritten and defrayed by public funds.

We also need to be able to fully understand the potential impact of future trade agreements on the world's environment. We must carefully balance economic development and environmental protection. To do this, we must have complete environmental impact statements conducted as negotiations proceed.

I am unwilling to support new trade negotiations that do not address these fundamental flaws by including labor rights and the environment as chapters in the core of the agreement equal in stature and force and linked to provisions on investment and trade. And, such labor and environmental provisions must be fully enforceable with access to trade sanctions where necessary. Access to the enforcement process for average citizens and non-governmental organizations must be provided. Transparency throughout the process must also be assured.

These issues must not be covered in separate side agreements that can later be rejected by the Republicans, but as integral parts of the agreement itself. For me, this is not negotiable. Trade, labor and the environment are inextricably intertwined. Trade agreements should not become vehicles to undermine progress in these important areas.

Scope of authority

Over the past four years we have signed more than 200 new trade agreements — NAFTA and the GATT among them. While I support expanding our export opportunities and enhancing the rules of trade, I do not believe that a case has yet been made for broad fast track authority.

Last year I joined with then Secretary of Commerce Kantor and Senator Hollings in calling for dramatically expanded trade monitoring and enforcement capabilities. It was my belief — and continues to be my belief — that we should seek to capitalize on and learn from existing trade agreements before we haphazardly seek to engage in new negotiations simply for the sake of negotiating.

In the first six months of its operation the trade monitoring and enforcement unit at the Department of Commerce has already begun to root out substantial problems in the carrying out of our trade policy. I commend the Department for its attention to this area. It would be unwise to proceed in new areas before we understand what has and hasn't worked.

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Accordingly, I believe that we should limit any grant of fast track authority — if the issues that I have raised are addressed — to bilateral negotiations with Chile or to remedy the flaws in the NAFTA before we proceed on any accession agreements. Indeed, our former colleague Bill Richardson, now serving as U.S. Ambassador to the United Nations, and I introduced Chile-only fast track legislation in 1994. While the legislative language is out-of-date, the approach of moving forward only with Chile, with significant changes from the 1994 NAFTA, should be the basis for any new trade negotiating authority. This proposal, and one I made later that year, provided trade negotiating authority while including significant procedural safeguards to protect Congress' interests.

I have been frustrated by the Administration's reluctance to provide factual analysis on our trade agreements and ongoing negotiations. Let me give you a few examples. Authority is being requested to expand NAFTA even before the congressionally-mandated July 1997 review is complete. I requested that the International Trade Commission do an analysis of the potential impact of allowing China to join the World Trade Organization. The ITC refused this request. As well, I requested that the USTR endorse my request, as provided for under current law, to force the ITC into acting. My understanding is that the USTR wants to limit the scope of the ITC's examination of these issues. Our Department of Labor has not released the survey it commissioned, which I mentioned earlier, that shows how companies are using the threat of moving jobs out of the country to limit union organizing success. There are many other areas where the debate is not being joined or is being stifled.

A case has not been made for providing trade negotiating authority in an open-ended way. That would be an overly broad delegation of Congressional power. Let's review where we are, what's been accomplished, and what needs to be accomplished before we provide broad trade negotiating authority. I believe that there will be broad bipartisan support on this point.

Upward Harmonization:

Our first step in reaching new trade agreements must be to require that all signatories enforce their basic laws. We should expect that as we engage in negotiations, the rule of law that a country has on its books — in its Constitution, statutory and regulatory manifestations — be fully enforced.

But this is the starting point, not the end, of our efforts. I commended the Mexicans during the negotiations for many of the laws that they have had on their books — especially those represented in Article 123 of their Constitution pertaining to basic labor rights. The first and most fundamental problem we faced, and continue to face, with Mexico is inadequate enforcement.

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Chile, on the other hand, has not made similar progress in terms of its basic body of labor laws. While Chile's efforts at democratic and political reform deserve our recognition and support, Chile's progress in advancing labor rights has fallen short of the mark. The labor law put in place during the Pinochet dictatorship remains in effect, thwarting organizing efforts. Large groups of Chilean workers are effectively barred from being able to engage in collective bargaining: rural, forestry, construction, and fisheries workers. Where the Chilean labor law even allows contracts to be collectively negotiated, they are limited in scope to plant or enterprise bargaining with a ban on industry-wide organizing.

It's important to recognize that President Frei's government has offered a number of important labor law reforms that would improve Chile's legal foundation. But these reforms have been blocked by business interests and the Pinochet faction in the Chilean Senate. A precondition for reaching an agreement with Chile should be the passage of these and other reforms. As we have demanded that other countries improve their intellectual property protection laws prior to entering into agreements with them, we should require the same approach with regard to labor laws.

There also are improvements necessary in Chile's environmental laws. The most glaring problem is that regulations have yet to be issued to implement Chile's 1994 environmental law. In a resource rich economy where four categories of natural resources — agriculture, forestry, fisheries, and mining — comprise 80% of all exports, this is a fundamental problem.

Clearly Chile has made great strides in advancing democracy — strides that I and many others applaud. We need to work towards further enhancing and deepening the progress that has been made. We have the opportunity to reach a good agreement with Chile. But, before we sit down at the bargaining table, we have an obligation to consider what a "good agreement" really means. And we have a right to say to the people of Chile: we'll start a new trade partnership — but not if it means trading away our values. Not if it means lowering our labor and environmental standards or standard of living, instead of raising yours.

Let's recognize that what we're talking about is comprehensive economic integration between our countries: This is more comprehensive than the average trade agreement which simply don't address these important issues. We're talking about a form of economic marriage. As such, we can, and must, expect to have a comprehensive discussion of these issues. If the agreement is to be a force for progress, it must address more than minimal standards. It has to ensure that the opportunity growth and economic advancement are possible. If we limit the debate by failing to address all the important issues we put our people's standard of living at risk.

During the NAFTA negotiations I and many others were told that we would be able to change the agreement once it had been signed into law. We were told that a process existed that would allow for negotiation and renegotiation of various changes.

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This was essentially a false promise. The ability to achieve results exists during the negotiating phase — not afterwards when our negotiating leverage has been lost. Rather than set an arbitrary deadline for completing negotiations, or being willing to accept a less than desirable result, we should remain at the negotiating table, or be willing to leave that table, if our national interests aren't furthered by the text of the agreement.

But in addition to the changes that should be made as part of any agreement, we need to recognize that further upward harmonization is necessary in labor and the environment and other important areas. We need to find a process that will ensure further progress, over time. A process that ties further trade liberalization — possibly within the context of the agreement — to other important improvements would further our interests in these vital areas.

Monetary Flows:

I pointed out earlier that I and others had raised during the NAFTA debate the threat that a devaluation of Mexico's peso could have on the U.S. and on the potential benefits that could result from any trade agreement with Mexico. Terms to counter major current fluctuations is an appropriate area for negotiation as part of any trade agreement.

During the peso crisis Administration officials pointed out the contagious effect that Mexico's problems could have on world financial markets. They pointed out that currencies and markets around the globe — from the Thai baht to the Italian lire — were effected. The bipartisan leadership on both sides of the Capitol supported the President's call for action.

But that call for action might have been avoided had we been aggressive with Mexico in addressing their economic policies during the course of the NAFTA debate. We must not allow this mistake to be made again. Congress' reluctance to support the peso bailout was a harbinger of future reluctance. The international financial system is not yet fully equipped to deal with a similar threat in the future. New trade agreements must address the issue of capital flight and currency stability.

Why must certain issues be covered in the core of the agreement

Coverage of labor and environmental issues must be included as a chapter in the core agreement, rather than included as side agreements as was done in NAFTA. Given the expansion of the impact of trade disciplines into the realm of domestic standards, coverage of labor and environmental issues is now as important to the success of a trade agreement as "traditional" trade issues.

A number of Republican members have indicated that they are willing to allow the commercial components of a trade agreement to be considered under fast track, but that other issues — labor and the environment and possibly others — might be subject to amendment. We cannot allow for some issues to be considered under procedural rules favoring passage and others under more cumbersome procedures. These Republicans want to try to delink labor and environmental issues from the trade agreement. This is simply unacceptable.

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Drug use by our nation's children is on the rise. While we must do all that we can to reduce the demand for drugs here in this country, we must also take advantage of every opportunity to reduce the supply of drugs. This is not a problem to be swept under the rug.

Transition

The American people know that our future lies in expanding economic engagement, not shying away from it. Given fair trade rules, American farmers, workers and businesses can out compete anyone.

But even with further economic integration under fair rules, we've got to recognize that there will be a price to pay for some Americans. While observers focus on the big winners, as elected public officials, we've got to focus on making ordinary people winners as well.

During the NAFTA debate I argued strenuously on this point. On two occasions I invited officials from the European Union to meet with me and other members of the Democratic Caucus to learn how they had addressed the integration of Spain, Portugal and Greece into the EU. To this day, the EU continues to focus on structural adjustment issues as a vital public policy issue. Since the integration of these countries into the EU, well over \$100 billion has been spent on integration efforts. The leaders understood the need to seriously address the impact of integration and address any dislocation or disruption in the economy. Clearly, any program we look at would, at best, only spend a fraction of this amount, but it's clear that we just haven't been serious about this issue. We need to have a comprehensive debate about this issue.

To date, over 109,000 people have been certified for NAFTA Trade Adjustment Assistance benefits. Many, many more were disqualified because of the difficulty in qualifying for assistance. And, many others never applied because of inadequate information or understanding about the current program. And, the program needs to be expanded to increase individual eligibility and to cover firms that need assistance as well. Employees should not have to relocate themselves and their families because their firm and community has been adversely affected — we should also find ways of helping firms shift their focus to new product lines and endeavors so that we prepare for change, rather than protect against it.

In the past, transition assistance here in the U.S. has been an afterthought rather than an integral part of our trade policy formulation. This is a fundamental mistake. If we are to build public support for further trade expansion efforts we've got to seriously address this issue.

I believe that now is the time for a comprehensive trade adjustment assistance program to be put in place that will provide the foundation for any future trade expansion efforts. We must not allow future trade agreements to proceed without an adequate transition program being adopted that is directly linked to the consideration of the trade agreement in Congress.

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It's important to understand that any changes to the core agreement would require symmetrical changes in other countries. If we were to accept coverage of labor and environment and other issues under side agreements and these provisions were not agreed to by either the U.S. or other countries, the core of the agreement could still stand. Only by including these issues in the core of the agreement can we ensure that they will either be part of the law, or the entire agreement will fail. The rules of the game must be as fair and effective for our workers as for our patents.

Human Rights — Rule of Law

The adequate protection of human rights should be a basic standard we apply to our trade relations with any country. Our basic values and interests should not be auctioned off to the highest bidder. The moral leadership of the United States has acted to promote change around the globe. We must not debase this basic interest.

It's also important to understand that advocacy of human rights promotes, not undermines, our economic interests. A country that does not protect human rights does not afford its people the ability to demand fair compensation for their efforts. The result is that we fail to lift up the standard of living of people in other countries. This means that we are not expanding the class of consumers who can purchase our exports and we are putting downward pressure on our living standard simply to compete.

Our business community also needs to understand that promotion of human rights is a question of the rule of law. A country that fails to enforce its laws in this important area may refuse to adequately enforce its laws that protect our business interests as well. We have clearly seen this in China where the disdain for the basic rule of law as it relates to human rights has a parallel in China's failure to adequately protect intellectual property, failure to adequately abide by its market access commitments and its failure to follow the rule of law in many other areas.

Trade in narcotics

I believe that we must address narcotics flows as part of any future trade negotiations. As we seek to enhance the flow of goods and services through easier access between and among our trading partners, we must recognize the risk of increased drug trafficking. As we ease the way for products to come to our shores, we increase the ability of drug traffickers to take advantage of relaxed customs procedures.

It's appropriate and, indeed, vital that we address this issue as part of our trade negotiations. Failure to aggressively address this issue will undermine our ability to stem the flow of drugs. We've already seen the impact of the failure to address this issue as part of the NAFTA. Estimates indicate a dramatic rise in the drug trade with Mexico.

Clearly enhancing economic opportunity in other countries through greater trade will help to ease the pressure on the population to engage in drug production and trafficking as growth and opportunity rise. But it would be naive to believe that this will occur quickly and that there will be a wholesale replacement of the financial benefits in the drug trade.

February 26, 1997

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Foreign Corrupt Practices

At the Miami Summit of the Americas in December, 1994 the issue of foreign corruption was highlighted. Former Commerce Secretary Mickey Kantor spent a great deal of effort highlighting this issue and seeking to promote positive solutions.

Across the globe U.S. business interests are prohibited from offering bribes or engaging in other corrupt practices, rightfully so, to expand their business interests. Rather than handcuffing our businesspeople as they seek to do business, we need to aggressively seek ways to rein in foreign corrupt practices that seek to pit one business against another to win a contract. Future trade agreements must seek to address this issue.

Length of authority

If trade negotiating authority is to be granted, it will essentially be a contract with President Clinton as to what powers and authority are delegated to him and his administration by Congress. While I believe that this grant should be as specific as possible, we must recognize that the authority will also depend on the intent and beliefs of the President.

Accordingly, I believe that Congress should be extremely reluctant to grant fast track authority beyond the current term of the President. Each President should have to make his or her case to the Congress and the American people as to how the authority is to be used.

Conclusion

I know that this letter is long, but the issues are important and complex. And, believe it or not, there are many other trade-related issues that demand attention — the treatment of indigenous peoples, and money laundering to name just two.

We need to have an engaged national debate on these issues in the country, not limit them to the back rooms in Congress. I hope that you will join with me in this debate so that we can ensure that future trade agreements enhance opportunity for all our people.

We must not be bound by arbitrary deadlines or the threat of lost opportunities. The United States is still the most open market in the world. And, it is the most desirable consumer market. We should be willing to use the leverage of access to our market to ensure that the rights and interests of our farmers, workers, businesses, public health and the environment are advanced, not undermined, by economic integration. I'm confident that an open, honest debate can yield positive results here at home and around the world.

Sincerely,



Richard A. Gephardt
House Democratic Leader

F A C S I M I L E

To: Gene Sperling
From: Sandy Levin
Re: Fast-Track
Date: August 25, 1997
Fax: 456-2878
Pages: 8, including this cover page

Attached is a memo I recently sent to Ambassador Barshefsky and Secretary Rubin about critical issues that must be addressed in the President's forthcoming fast-track trade proposal. I am sharing the memo with you and a few other key Administration officials in the hope that we can craft fast-track legislation that adequately addresses these issues. I will follow up in the coming days.

He called for
2 days ago.

U.S. Congressman Sander M. Levin
2209 Rayburn House Office Building
Washington, DC 20515

Tel: (202) 225-4961
Fax: (202) 226-1033

**To: Hon. Robert Rubin
Hon. Charlene Barshefsky**

From: Sandy Levin

Date: August 13, 1997

Re: Fast Track

Let me get to the nub of the fast track dynamic in the Congress and the nation, as I see it.

Its high volatility reflects, in my judgment, the confluence of two factors:

1) Despite an exceptionally long period of over-all prosperity in our nation, many families have experienced prolonged wage stagnation, aggravated by widening disparities in income, and despite low unemployment, there has been considerable job insecurity.

2) The euphoria over rising exports has masked a change in our trade patterns toward increasing imports from developing nations. Though the typical American family does not know the over-all figures, they see it in the products they are buying in the stores. They know that these goods from less developed countries are produced with labor that costs a fraction of that in the United States. While rarely well-versed in economics, they sense that these products come from economies where the central government often controls wages, salaries, other conditions of employment, investment policies, etc., in a manner that would never be acceptable in our nation.

Surely there are other factors that will influence the upcoming fast track debate, but I believe they are secondary at best. The fact that fast track gives most of the leverage to

the Administration would not, in and of itself, create formidable Congressional resistance. This delegation of authority is now a tradition. Nor is the Presidential election in 2000 a major issue. Fast track has been granted in the shadow of an upcoming election before. And while the active opposition to fast track by the leadership of the labor movement is surely a factor in Congressional and public opposition, it is clear to me that the restlessness on this issue comes substantially from the bottom up, not the top down. NAFTA is entangled with fast track--after all it was the NAFTA debate that was the first in many years to raise trade as a national concern in any real sense. But for a variety of reasons it is unwise to shape the issue mainly as a judgment on NAFTA. What the American consumer sees increasingly in the stores are not goods coming from Mexico, but products from other developing nations. This seems to be the source of the concern about fast track that is picked up in public opinion polls, such as one recently done by the Wall Street Journal that showed a majority opposed to fast track. It is true that if fast track was intended solely to negotiate new sectoral agreements for services or high tech equipment or to reduce foreign agricultural subsidies, there would be much less contention on Capitol Hill. But these goals are not a primary issue.

The real question facing fast track is the extent to which there is a connection between these two phenomena--continued economic problems for a significant portion of the population and rising imports from developing countries--and what present trends portend for the future. Thus far the Administration's position on these issues in the context of the fast track debate has been unclear.

There seem to be several reasons for this.

1) The fast track issue has been substantially mis-framed. It has been discussed as an issue of "labor rights". This frames the issue as a human rights concern, where America's interest is part self-interest but also in a true sense altruistic. But trade negotiations are not about altruism; they are about the pursuit of America's self-interest. Should our self-interest not be defined to include all the rules of competition abroad; be they rules regarding labor markets or state subsidies and control of industries that are important to our economy?

2) Republicans oppose negotiating about "labor rights" and since they hold the majority in Congress, there has been a search for an approach to fast track that is satisfactory to them.

3) The issue polarizes labor and management in the United States. They

were together the issue was whether the United States should insist that Europe and Japan be required to have open markets similar to those in the United States. This consensus would likely continue regarding access to markets in developing nations. But questions about whether free market rules similar to those in the United States should prevail in the production of those goods or services in developing countries, are divisive. That has particularly been the case with larger U.S. companies that want to establish production bases in other nations.

4) The economics profession paid relatively little attention to the issue of wage stagnation and growing inequality until the last several years. Since then economists have begun to look at the impact of competition with low wage nations on the U.S. standard of living. I recently worked to put together a roundtable discussion between members of Congress and a number of these economists. There was some agreement that technological change, trade policies, and immigration have impacted the American standard of living, but disagreement as to the order of magnitude of that impact. The studies that have found a trade impact usually talk about a causal relationship between trade and a stagnating standard of living of about 15%, and say the greatest impact has been on those workers in the United States with the least educational attainment and lower skills.

When one reads and listens to these presentations, several features stand out: there has been little interaction between the academic world and decision makers (as is true in many other areas); few decision makers have read these studies and those who have written the studies have spent little time thinking about the policy implications of their findings; and these studies seem somewhat static--they assume that developing nations like China will continue to mainly export low-end goods like toys and shirts.

5) This is clearly not a simple issue. Complexity increases the chances that the fast track debate will fall into the pit of polarization that has marked national discussions over trade in the past. The "free trade vs. protectionism" sloganeering dominated the struggle over U.S. trade policy toward Japan in the 1980's. While a good number of those who dismissed such concerns as "protectionism" still consider the issue inconsequential, a growing number of economists and opinion makers have become more receptive to an activist trade policy regarding access to markets of other industrial nations, and this Administration has certainly said it advocates such an approach to trade.

Because of its complexity, it is somewhat perilous to use anecdotes or to pick out one or another example. But let me include one here as an illustration of my concern about

fast track. The Wall Street Journal recently ran an article about General Motors' plans for developing nations (enclosed herewith). The piece discusses GM's intention to build essentially identical plants in Argentina, Poland, China and Thailand. The company's objective is to take advantage of those nations' low wage rates compared to wages in the United States. It also plans to transfer technical expertise to these developing nations ("no longer are those countries' lower wage rates the sole driver of global expansion; companies are cultivating engineers, research and marketing experts..."). And they are trying to build up a base of suppliers to help meet each nation's local content rules and thus cut back on imported parts ("Already, the number of GM suppliers in North America is dwindling; exports of parts from South America to the U.S. and Europe hit a record \$250 million last year").

The facts in this Wall Street Journal article reflect an increasing trend toward globalization that is part of a larger, irreversible trend that possesses major pluses for the U.S. But does it not also raise some important issues about the impact of this development on the American economy and on American workers and businesses (especially the non-conglomerates) and about America's ability to help shape the nature and impact of these trends? It seems pretty clear this would be the reaction to this article by the owners of a small auto parts supply company and by both salaried and hourly workers in the automotive industry.

When I was in China several months ago, I visited a very modern Delphi plant making harnesses and other auto parts. At that point, 80% of the components used in that facility were imported from the United States. So GM investment in China was beneficial for U.S. workers at that point. But as we talked over matters in the plant, it was clear that over time the American content in their production would shrink or disappear as the Chinese began to find it to their advantage to enforce their own local content law and as GM transferred technology to the plant as required under its agreement with its Chinese joint-venture partner. A similar picture was painted for the joint venture due to start operations in China this year to assemble the Buick Regal, in the plant undoubtedly referred to in the Wall Street Journal article.

There is a similar ring to the reaction expressed in the second article that I am enclosing. It describes the reactions of automotive industry executives to a pending UN treaty that would impose different emission controls in industrialized nations than in industrializing nations. Basically, the auto executives' position is that the United States would not be able to compete under those circumstances and would be forced to shut down plants or move operations to developing countries. A similar sentiment was behind the unanimous vote on this matter in a recent Senate resolution. This again is a

complex issue but one of the points is that disparate environmental standards can affect competition. Is not the same true of vastly divergent labor market and related market conditions? No one expects comparable business conditions over night. But should there not be a negotiated path that would lead toward a constant narrowing of the gap between the business environment in industrial economies and that in developing economies?

Faced with a difficult issue, there is a tendency to punt. That is what has essentially been behind the search for language in the fast track proposal that can get around these issues. I don't believe that effort will work, and would urge that it would not be a wise outcome.

As relevant as these issues are to fast track, or to several possible uses of it, they loom even larger in relation to China's accession to the WTO. Access to China's market is an important concern. But probably still more vital are the rules under which U.S. companies in China will compete with those of other nations. Will there be any aspects of a free labor market? Will there be any real limits on central control of conditions of employment? On subsidies filtered through the governmental entities, who will be the venture partners of foreign companies? What kinds of transition periods will be allowed? And so forth.

In my judgment it will not suffice to say in response to these concerns that the United States is trying to foster international rule-making through the ILO. The likely outcome there is so tenuous that the argument will not suffice. Nor does it suffice to argue that we should not impose our type of free-market system on that of other nations. That is exactly the purpose of the IMF and WTO with regard to tariffs, rules for business investment, intellectual property, etc. Nor is it persuasive to label "labor rights" as "social issues" as is sometimes done by some members of the Congressional majority.

What, then, are possible options?

- 1) Try to push through broad fast track authority, leaving these issues unarticulated and hands untied, as true for previous Presidents (and let allies try to smother this issue with other arguments, trying to paint all the opponents as "protectionists" or "old Democrats", hoping to eventually win with a coalition of most of the Republicans and perhaps as few as one-fourth or one-third of the Democrats).

- 2) Acknowledge the problem to some extent but urge that while it is unclear what might be done in the negotiations, the answer in this area is more effective domestic economic and social programs, including training and education.

3) Indicate that you have analyzed the issues raised in this memo and simply do not feel that there is a solution to these problems. This outcome involves the Administration making the argument that whatever may be the impact on the U.S. standard of living of trade with different economies, there is no indication that trade agreements have any real such impact.

4) Break the fast track issue into pieces and ask for negotiating authority covering sectoral agreements, bilateral arrangements with other industrialized nations, etc.

5) Grab hold of the issue as one part of an over-all Administration economic policy with a goal of raising the American standard of living and closing the wealth and income disparities in America, indicate the relevance of these issues while stating their complexity, express your determination to confront them in any relevant negotiations through fast track and in talks with China of its WTO accession and commit to meaningful consultations with Congress, especially in relation to our response to new trends in trade.

I favor the fifth option. What it would mean for the fast track proposal submitted to Congress is a clear enunciation that the Administration considers the relationship between the standard of living for many Americans and conditions relating to rising competition from developing nations to be important and that the Administration will confront these issues in trade negotiations with developing countries. I believe such articulation could carry more significance than efforts to delineate in advance the exact formula or format to be used in approaching these issues in negotiations.

As to the first approach, I believe that the drawbacks speak for themselves. The trouble with the second is that while it shifts the onus of negative impacts from international trade to domestic programs, the evidence to date is that they will not begin to suffice.

I know that there have been discussions both within the Administration and Congress on the fourth option of splitting fast track into several pieces. It does have some arguments in its favor; but it fails to address the set of issues which are the focus of this memo.

I know that acknowledgment of the relationship of these issues to trade runs against some of conventional thinking about trade policy. I don't underestimate their complexity, which, as I delved into them, increased my awareness both of my shortfall in training in economics and of the timidity of many of those versed in that profession

to delve creatively into the public policy implications of their work.

But I urge that I am far from alone in believing this set of issues needs the kind of serious consideration on substance that is the basis for a sound strategy, beyond the clash of slogans and rhetoric so typical of trade debates and beyond a focus on legislative tactics and whipping for votes. I also consider overdrawn the argument delay on this matter has caused us to lose important ground, but in any event it does not obviate the need for us to decide the appropriate direction in which we should move.

I urge that with almost every week's passing, there is new evidence of a restlessness in America about the economic security of individual families. This might seem ironic in this day of general prosperity. But there are understandable reasons for this paradox. Fast track touches and is touched by this unease.

This memorandum is addressed to you in view of our earlier discussion, in the hope that it might be useful for the mix of deliberations now underway that will lead to the Administration's decision on the shape of the fast track proposal to be sent to Congress. I am also sending a copy to the Vice President pursuant to my brief discussion on this matter with him after the bill signing last Tuesday.

under the International Emergency Economic Powers Act or the Trading With the Enemy Act may also be administered by an auctioned import license. Certain agricultural import quotas, however (such as certain meat quotas, cheese quotas, and dairy quotas) are exempt from the auction authority and therefore may not be administered by means of auctioned licenses.

Trade Adjustment Assistance

CHAPTERS 2, 3, AND 5 OF TITLE II OF THE TRADE ACT OF 1974, AS AMENDED

The trade adjustment assistance (TAA) programs were first established under the Trade Expansion Act of 1962 for the purpose of assisting in the special adjustment problems of workers and firms dislocated as a result of a Federal policy of reducing barriers to foreign trade. As a result of limited eligibility and usage of the programs, criteria and benefits were liberalized under title II of the Trade Act of 1974, Public Law 93-618. The Omnibus Budget Reconciliation Act of 1981 (OBRA), Public Law 97-35, reformed the program for workers as proposed by the Administration. The amendments, particularly in program eligibility and benefits, were intended to reduce program cost significantly and to shift its focus from income compensation for temporary layoffs to return to work through training and other adjustment measures for the long-term or permanently unemployed. The OBRA also made relatively minor modifications in the firm program. Most amendments became effective on October 1, 1981. Both programs were extended at that time for 1 year, to terminate on September 30, 1983.

Public Law 98-120 (H.R. 3813 as amended by the Senate), approved on October 12, 1983, extended the worker and firm TAA programs for 2 years, until September 30, 1985. Sections 2671-2673 of the Deficit Reduction Act of 1984, Public Law 98-369, included three provisions (sections 3, 6, and 8 of H.R. 3391 as passed by the House on September 15, 1983) which amended the program for workers to increase the availability of worker training allowances and the level of job search and relocation benefits, and amended the program for firms to increase the availability of industrywide technical assistance.

The termination date of the worker and firm TAA programs was further extended under temporary legislation in the first session of the 99th Congress (Public Laws 99-107, 99-155, 99-181, and 99-189) until December 19, 1985. The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), Public Law 99-272, approved April 7, 1986, reauthorized the TAA programs for workers and firms for 6 years retroactively from December 19, 1985, until September 30, 1991, with amendments.

Sections 1421-1430 of Public Law 100-418, the Omnibus Trade and Competitiveness Act of 1988 (OTCA), enacted on August 23, 1988, made significant amendments in the worker TAA program, particularly concerning the eligibility criteria for cash benefits, funding, and administration. A training requirement as a condition for income support to encourage and enable workers to obtain early reemployment became effective as of November 21, 1988. This replaced a 1986 amendment that instituted a job search requirement

as a condition for receiving cash benefits. The amendments also expanded TAA eligibility coverage of workers and firms, contingent upon the imposition of an import fee to fund program costs. The OTCA extended TAA program authorization for an additional 2 years until September 30, 1993.

Section 136 of the Customs and Trade Act of 1990, Public Law 101-382, approved on August 20, 1990, extended the completion and reporting period for the supplemental wage allowance demonstration projects for workers required by the 1988 amendments. No other amendments affecting the TAA programs were enacted in the 101st Congress. Section 106 of Public Law 102-318, to extend the emergency unemployment compensation program, provided for weeks of active military duty in a reserve status (including service during Operation Desert Storm) to qualify toward the minimum number of weeks of prior employment required for TAA eligibility. No other changes were made to the program during the 102d Congress.

Section 13803 of the Omnibus Budget Reconciliation Act (OBRA 1993) of 1993, Public Law 103-66, approved August 10, 1993, reauthorized the TAA programs for workers and firms for an additional five years through fiscal year 1998, with assistance to terminate on September 30, 1998. Section 13803 of the OBRA 1993 also reduced the level of the "cap" on training entitlement funding from \$80 million to \$70 million for fiscal year 1997 only.

Sections 501 through 506 of the North American Free Trade Agreement (NAFTA) Implementation Act, Public Law 103-182, approved December 8, 1993, set forth the "NAFTA Worker Security Act," establishing the NAFTA transitional adjustment assistance program for workers as a new subchapter D (section 250) under chapter 2 of Title II of the Trade Act of 1974. That special program went into effect on January 1, 1994, and will terminate on the earlier of September 30, 1998 or the date a comparable comprehensive dislocated worker program becomes effective.

TRADE ADJUSTMENT ASSISTANCE PROGRAM FOR WORKERS

Trade adjustment assistance for workers under sections 221 through 250 of the Trade Act of 1974, as amended, consists of trade readjustment allowances (TRA), employment services, training and additional TRA allowances while in training, and job search and relocation allowances for certified and otherwise qualified workers. The program is administered by the Employment and Training Administration (ETA) of the Department of Labor through State agencies under cooperative agreements between each State and the Secretary of Labor. ETA processes petitions and issues certifications or denials of petitions by groups of workers for eligibility to apply for TAA. The State agencies act as Federal agents in providing program information, processing applications, determining individual worker eligibility for benefits, issuing payments, and providing re-employment services and training opportunities.

Certification requirements

A two-step process is involved in the determination of whether an individual worker will receive trade adjustment assistance: (1) certification by the Secretary of Labor of a petitioning group of

workers in a partic
by the State agenc
for benefits of an in

The process begins with a petition for recognition, or authorization for certification of workers as eligible for representation. The process must determine

1. A significant firm or subdivision be totally or partially
2. Sales and/or increased absolutely
3. Increased with articles published have "contributed" to a decline in sales and

The OCTA aims to include and engages in exploration

The Secretary is within 60 days after the date of the petition to apply for TAA whose last total or before applying for ing of the petition.

State agencies must apply for TAA certification of eligible workers in newly affected workers. TAA program benefits qualifying requirements for each such worker. The worker applies for certified worker status.

Qualifying require

In order to receive a dependent allowance for a child, the child must be an adversely affected child. The application with the required supporting documents must meet the following requirements:

1. The world affected employment application application date" in the c offs in the fi begin, but ne tion), within sued the cert mination dat

The amendments also extended the completion of the program costs. The amendments for an additional 2

Act of 1990, Public Law extended the completion of the wage allowance demonstration by the 1988 amendments. Programs were enacted in the Law 102-318, to extend the program, provided for the status (including service) toward the minimum required for TAA eligibility during the 102d Con-

Reconciliation Act (OBRA) of August 10, 1993, reauthorized firms for an additional assistance to terminate on OBRA 1993 also reduced the funding from \$80 mil-

the American Free Trade Public Law 103-182, approved NAFTA Worker Security adjustment assistance under D (section 250) under 74. That special program will terminate on the earliest comparable comprehensive ve.

TRADE WORKERS

Under sections 221 amended, consists of trade services, training and job search and re-employment and Training Adjustment through State agencies. Each State and the Secretary issues certifications or eligibility to apply for agents in providing programs determining individual needs, and providing re-

termination of whether adjustment assistance: (1) a petitioning group of

workers in a particular firm as eligible to apply; and (2) approval by the State agency administering the program of the application for benefits of an individual worker covered by a certification.

The process begins by a group of three or more workers, their union, or authorized representative filing a petition with the ETA for certification of group eligibility. To certify a petitioning group of workers as eligible to apply for adjustment assistance, the Secretary must determine that three conditions are met:

1. A significant number or proportion of the workers in the firm or subdivision of the firm have been or are threatened to be totally or partially laid off;
2. Sales and/or production of the firm or subdivision have decreased absolutely; and
3. Increased imports of articles like or directly competitive with articles produced by the firm or subdivision of the firm have "contributed importantly" to both the layoffs and the decline in sales and/or production.

The OCTA amendments expanded the potential eligibility coverage to include workers in any firm or subdivision of a firm that engages in exploration or drilling for oil or natural gas.

The Secretary is required to make the eligibility determination within 60 days after a petition is filed. A certification of eligibility to apply for TAA covers workers who meet the requirements and whose last total or partial separation from the firm or subdivision before applying for benefits occurred within 1 year prior to the filing of the petition.

State agencies must give written notice by mail to each worker to apply for TAA where it is believed the worker is covered by a certification of eligibility and also must publish notice of each certification in newspapers of general circulation in areas where certified workers reside. State agencies must also advise each adversely affected worker, at the time that worker applies for UI, of TAA program benefits as well as the procedures, deadlines, and qualifying requirements for applying. State agencies must advise each such worker to apply for training before or at the same time the worker applies for TRA benefits and promptly interview each certified worker and review suitable training opportunities available.

Qualifying requirements for trade readjustment allowances

In order to receive entitlement to payment of a trade readjustment allowance for any week of unemployment, an individual must be an adversely affected worker covered by a certification, file an application with the State agency, and meet the following qualifying requirements:

1. The worker's first qualifying separation from adversely affected employment occurred within the period of the certification applicable to that worker, i.e., on or after the "impact date" in the certification (the date on which total or partial layoffs in the firm or subdivision thereof began or threatened to begin, but never more than 1 year prior to the date of the petition), within 2 years after the date the Secretary of Labor issued the certification covering the worker, and before the termination date (if any) of the certification.

2. The worker was employed during the 52-week period preceding the week of the first qualifying separation at least 26 weeks at wages of \$30 or more per week in adversely affected employment with a single firm or subdivision of a firm. A week of unemployment includes the week in which layoff occurs and up to 7 weeks of employer-authorized vacation, sickness, injury, maternity, or military leave, or service as a full-time union representative. Weeks of disability covered by workmen's compensation and, as amended in 1992, weeks of active duty in a military reserve status may also count toward the 26-week minimum.

3. The worker was entitled to unemployment insurance (UI), has exhausted all rights to any UI entitlement, including any extended benefits (EB) or Federal supplemental compensation (FSC) (if in existence), and does not have an unexpected waiting period for any UI.

4. The worker must not be disqualified with respect to the particular week of unemployment for EB by reason of the work acceptance and job search requirements under section 202(a)(3) of the Federal-State Extended Unemployment Compensation Act of 1970. All TRA claimants in all States are subject to the provisions of the EB "suitable work" test under that Act (i.e., must accept any offer of suitable work, actively engage in seeking work, and register for work) after the end of their regular UI benefit period as a precondition for receiving any weeks of TRA payments. The EB work test does not apply to workers enrolled or participating in a TAA-approved training program; the test does apply to workers for whom TAA-approved training is certified as not feasible or appropriate.

5. The worker must be enrolled in, or have completed following separation from adversely affected employment within the certification period, a training program approved by the Secretary of Labor in order to receive basic TAA payments, unless the Secretary has determined and submitted a written statement to the individual worker certifying that approval of training is not "feasible or appropriate" (e.g., training is not available that meets the criteria for approval, funding is not available to pay the full training costs, there is a reasonable prospect that the worker will be reemployed by the firm from which he was separated). No cash benefits may be paid to a worker who, without justifiable cause, has failed to begin participation or has ceased participation in an approved training program until the worker begins or resumes participation, or to a worker whose waiver of participation in training is revoked in writing by the Secretary. This training requirement became effective under the OCTA amendments as of November 21, 1988; this 1988 amendment replaced a 1986 amendment that instituted a job search requirement as a condition for receiving cash benefits.

Cash benefit levels and duration

A worker is entitled to TRA payments for weeks of unemployment beginning the later of (a) the first week beginning more than

60 days after certification under the statutory provisions of the worker's State.

The TRA cash benefit is a percentage of the worker's total unemployment compensation, reduced by the amount of any other unemployment benefits received during the work week. The maximum weekly benefit is 100 percent of the worker's total unemployment compensation, reduced by the amount of any other unemployment benefits received during the work week.

The maximum weekly benefit is 100 percent of the worker's total unemployment compensation, reduced by the amount of any other unemployment benefits received during the work week. The maximum weekly benefit is 100 percent of the worker's total unemployment compensation, reduced by the amount of any other unemployment benefits received during the work week.

TRA benefit standard of 100 percent of the worker's total unemployment compensation, reduced by the amount of any other unemployment benefits received during the work week. The maximum weekly benefit is 100 percent of the worker's total unemployment compensation, reduced by the amount of any other unemployment benefits received during the work week.

The 1988 amendments to the TRA Act, effective November 1, 1988, disincentivized the use of TRA benefits by requiring that a worker who has a subsequent total qualification for unemployment benefits must first complete a training program approved by the Secretary of Labor.

A worker is eligible for TRA benefits if that worker is unemployed for a period of at least 60 days after certification under the statutory provisions of the worker's State. The TRA cash benefit is a percentage of the worker's total unemployment compensation, reduced by the amount of any other unemployment benefits received during the work week.

52-week period preceding separation at least 26 weeks in adversely affected subdivision of a firm. A week in which layoff occurs and is followed by vacation, sickness, injury, or service as a full-time employee, or service as a full-time employee covered by workmen's compensation, counts toward the 26-week period.

Unemployment insurance (UI), UI entitlement, including any supplemental compensation, may not have an unexpected waiting period.

Qualification with respect to the EB by reason of the workmen's compensation under section 202(a)(3) Unemployment Compensation Act of 1932. All States are subject to the "active search" test under that Act (i.e., the worker must actively engage in seeking employment after the end of their regular employment for receiving any weeks of unemployment compensation). It does not apply to workers in an approved training program; for whom TAA-approved training is appropriate.

in, or have completed follow-up employment within the program approved by the Secretary. TAA payments, unless denied, require a written statement certifying that approval of training is not available (e.g., training is not available, funding is not available, there is a reasonable prospect of reemployment by the firm from which benefits may be paid to a worker, has failed to begin participation in an approved training program, or resumes participation, or participation in training is required. This training requirement to obtain early reemployment benefits was amended as of November 1986. The 1986 amendment replaced a 1986 amendment requirement as a condition for re-

entitlement for weeks of unemployment compensation beginning more than

60 days after the filing date of the petition that resulted in the certification under which the worker is covered (i.e., weeks following the statutory deadline for certification), or (b) the first week after the worker's first total qualifying separation.

The TRA cash benefit amount payable to a worker for a week of total unemployment is equal to, and a continuation of, the most recent weekly benefit amount of unemployment insurance payable to that worker preceding that worker's first exhaustion of UI following the worker's first total qualifying separation under the certification, reduced by any Federal training allowance and disqualifying income deductible under UI law.

The maximum amount of basic TRA benefits payable to a worker for the period covered by any certification is 52 times the TRA payable for a week of total unemployment minus the total amount of UI benefits to which the worker was entitled in the benefit period in which the first qualifying separation occurred (e.g., a worker receiving 39 weeks of UI regular and extended benefits could receive a maximum 13 weeks of basic TRA benefits). UI and TRA payments combined are limited to a maximum 52 weeks in all cases involving extended compensation benefits (i.e., a worker who received 52 or more weeks of unemployment benefits would not be entitled to basic TRA). TRA benefits are not payable to workers participating in on-the-job training.

TRA benefits prior to October 1, 1981, were a uniform national standard of 70 percent of the worker's former gross weekly wage not to exceed the average weekly manufacturing wage, reduced by the amount of the worker's unemployment compensation entitlement, 50 percent of any part-time earnings, and certain Federal training allowances. The purpose of shifting cash benefits to State standards and other changes under the OBRA, effective as of October 1, 1981, was to reduce program costs, to remove reemployment disincentives associated with the previous high net wage replacement, and to reduce the inequity in benefit amounts payable to import-impaired workers versus workers laid off for other reasons.

The 1988 amendments essentially restored the moveable 2-year eligibility period for collecting basic TRA in effect prior to the 1981 amendments (i.e., restored eligibility to the most recent rather than from the first qualifying separation). The eligibility period for collecting basic TRA is the 104-week period that immediately follows the week in which a total qualifying separation occurs. If the worker has a subsequent total qualifying separation under the same certification, the eligibility period for basic TRA moves from the prior eligibility period to 104 weeks after the week in which the subsequent total qualifying separation occurs.

A worker may receive up to 26 additional weeks of TRA benefits after collecting basic benefits (up to a total maximum of 78 weeks) if that worker is participating in approved training, in order to assist in completing such training. To receive the additional benefits, the worker must apply for the training program within 210 days after certification or first qualifying separation, whichever date is later. Additional benefits may be paid only during the 26-week period that follows the last week of entitlement to basic TRA, or that begins with the first week of training if the training begins after the exhaustion of basic TRA.

As provided in the 1988 amendments, a worker participating in approved training continues to receive basic and additional TRA payments during breaks in such training if the break does not exceed 14 days, if the worker was participating in the training before the beginning of the break, resumes participation in the training after the break ends, and the break is provided for in the training schedule. Prior to the OCTA amendments, the worker had to be actually engaged in training in a particular week to be entitled to additional TRA for that week. Weeks when TRA is not payable because of this break provision still count against the eligibility periods for both basic and additional TRA.

Training and other employment services, job research and relocation allowances

Training and other employment services and job search and relocation allowances are available through State agencies to certified workers whether or not they have exhausted UI benefits and become eligible for TRA payments.

Employment services consist of counseling, vocational testing, job search and placement, and other supportive services, provided for under any other Federal law.

Training, preferably on-the-job, shall be approved for a worker if the following six conditions are met:

- (1) There is no suitable employment available;
- (2) The worker would benefit from appropriate training;
- (3) There is a reasonable expectation of employment following training completion;
- (4) Approved training is reasonably available from government agencies or private sources;
- (5) The worker is qualified to undertake and complete such training; and
- (6) such training is suitable for the worker and available at a reasonable cost.

If training is approved, the worker is entitled to payment of the costs for the Secretary directly or through a voucher system, unless they have been paid or are reimbursable under another Federal law. On-the-job training costs are payable only if such training is not at the expense of currently employed workers. The 1988 amendments added remedial education as a separate and distinct approvable training program, whereas previously it was approvable only as part of a broader training program that also included skills training.

The OCTA amendments converted training from an entitlement to the extent appropriated funds were available, as provided in the 1986 amendments, to an entitlement without regard to the availability of funds to pay the training costs. As of the OCTA amendments, effective on August 23, 1988, approved training is an entitlement in any case where the six criteria for approval are reasonably met, up to a \$80 million statutory ceiling on annual fiscal year training costs (including job search and relocation allowances and subsistence payments) payable from TAA funds. Up to this limit workers are entitled to have the costs of approved training paid on their behalf. If the Secretary foresees that the \$80 million ceiling would be exceeded in any fiscal year, the Secretary will decide how

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amendments, a worker participating in training may receive basic and additional TRA payments during the break if the break does not exceed 12 weeks. If the worker resumes participation in the training after the break, the worker had to be active for a particular week to be entitled to additional TRA. Weeks when TRA is not payable because the worker is on a break still count against the eligibility period for TRA.

Transportation services, job research and relocation

Transportation services and job search and relocation allowances are available through State agencies to certified workers who have exhausted UI benefits and benefits.

Transportation services, vocational testing, job search and other supportive services, provided for

job, shall be approved for a worker if the following conditions are met:

- employment available;
- benefit from appropriate training;
- reasonable expectation of employment following training.

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workers are entitled to payment of the allowance through a voucher system, unless the allowance is reimbursable under another Federal program. Allowances are payable only if such training is for newly employed workers. The 1988 amendments to the TRA act as a separate and distinct program whereas previously it was approvable under the TRA program that also included skills

diverted training from an entitlement program. Funds were available, as provided in the TRA act, without regard to the availability of training costs. As of the OCTA amendments, 1988, approved training is an entitlement. Six criteria for approval are reasonable: (1) statutory ceiling on annual fiscal year training and relocation allowances and (2) payment from TAA funds. Up to this limit the costs of approved training paid on TRA. The Secretary foresees that the \$80 million ceiling for 1995, the Secretary will decide how

remaining TAA funds shall be apportioned among the States for the balance of that year.

As a result of the OCTA amendments, costs of approved TAA training may be paid solely from TAA funds, solely from other Federal or State programs or private funds, or from a mix of TAA and public or private funds, except if the worker in the case of a non-governmental program would be required to reimburse any portion of the costs from TAA funds. Duplicate payment of training costs is prohibited, and workers are not entitled to payment of training costs from TAA funds to the extent these costs are paid or shared from other sources. Training may still be approved if the fiscal year TAA funding entitlement limit is reached if the training costs are paid from outside sources.

Supplemental assistance is available to defray reasonable transportation and subsistence expenses for separate maintenance when training is not within the worker's commuting distance, equal to the lesser of actual per diem expenses or 50 percent of the prevailing Federal per diem rate for subsistence and prevailing mileage rates under Federal regulations for travel expenses.

Job search allowances are available to certified workers who cannot obtain suitable employment within their commuting area, are totally laid off, and who apply within 1 year after certification or last total layoff, whichever is later, or within 6 months after concluding training. The allowance for reimbursement is equal to 90 percent of necessary job search expenses, based on the same increased supplemental assistance rates described above, up to a maximum amount of \$800. The Secretary of Labor is required to reimburse workers for necessary expenses incurred to participate in an approved job search program.

Relocation allowances are available to certified workers totally laid off at time of relocation who have been able to obtain an offer of or actual suitable employment only outside their commuting area, who apply within 14 months after certification or last total layoff, whichever is later, or within 6 months after concluding training, and whose relocation takes place within 6 months after application of completion of training. As amended in 1981 and 1984, the allowance is equal to 90 percent of reasonable and necessary expenses for transporting the worker, family, and household effects, based on the same increased supplemental assistance rates described above, plus a lump sum payment of three times the worker's average weekly wage up to a maximum amount of \$800.

Funding

Federal funds, as an appropriated entitlement from general revenues under the Federal Unemployment Benefit Account (FUBA) in the Department of Labor, cover the portion of the worker's total entitlement represented by the continuation of UI benefit levels in the form of TRA payments, as well as payments for training and job search and relocation allowances, and State-related administrative expenses. Funds made available under grants to States defray expenses of any employment services and other administrative expenses. For fiscal year 1995, \$274.4 million has been appropriated for trade readjustment allowances and related administrative expenses. Funding for training, job search and relocation allowances,

and related expenses is an annual appropriated entitlement under the Training and Employment Services account of the Department of Labor.

The States are reimbursed from Treasury general revenues for benefit payments and other costs incurred under the program. A penalty under section 239 of the Trade Act of 1974 provides for reduction by 15 percent of the credits for State unemployment taxes which employers are allowed against their liability for Federal unemployment tax if a State has not entered into or has not fulfilled its commitments under a cooperative agreement.

NAFTA WORKER SECURITY ACT

Subchapter D of chapter 2 (section 250) of title II of the Trade Act of 1974 establishes a NAFTA transitional adjustment assistance program for workers who may be adversely impacted by the NAFTA. Import-impacted workers may also petition for assistance under TAA, but cannot obtain benefits under both programs. Assistance under subchapter D shall terminate after the earlier of September 30, 1998, or the date on which legislation establishing a program providing all dislocated workers with comprehensive assistance substantially similar to the assistance provided under subchapter D becomes effective.

A group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) shall be certified as eligible to apply for adjustment assistance under subchapter D if the Secretary determines that a significant number or proportion of the workers in the firm or subdivision of the firm have become or are threatened to become totally or partially separated, and either:

1. Sales and/or production of the firm or subdivision have decreased absolutely, imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and the increase in imports contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision; or

2. There has been a shift in production by the workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles produced by the firm or subdivision.

A group of workers or their union or other duly authorized representative may file a petition for certification of eligibility to apply for adjustment assistance under subchapter D with the Governor of the State in which the worker's firm or subdivision is located. Upon receipt of the petition, the Governor must notify the Secretary of Labor. Within 10 days thereafter, the Governor must make a preliminary finding as to whether the petition meets the certification criteria and transmit the petition, together with a statement of the finding and reasons therefor, to the Secretary for action. If the preliminary finding is affirmative, the Governor will ensure that rapid response and basic readjustment services authorized under other Federal law are made available to the workers.

Within 30 days after receiving the petition, the Secretary must determine whether the petition meets the certification criteria. Upon an affirmative determination, the Secretary will issue to workers covered by the petition a certification of eligibility to apply

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TRADE ADJUSTMENT ASSISTANCE

Sections 251 through 254 of the Trade Act of 1974 contain the procedures and conditions for adjustment assistance. The program is designed to assist workers who have lost their jobs as a result of increased import competition. Economic Development, Commerce, and Finance. Assistance is provided to workers who have lost their jobs as a result of increased government spending. The criteria for certification are:

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To certify a firm
the Secretary must

1. A significant number or proportion of the workers in the firm have been laid off;

2. Sales and/or production of the firm have decreased absolutely, or sales and/or production have increased, and the increase in sales and/or production has contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of the firm or subdivision;

months preceding the date of application

priority entitlement under account of the Department

carry general revenues for aid under the program. A act of 1974 provides for restate unemployment taxes r liability for Federal und into or has not fulfilled ement.

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) of title II of the Trade itional adjustment assist- adversely impacted by the lso petition for assistance under both programs. As- inate after the earlier of h legislation establishing s with comprehensive as- stance provided under sub-

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ction by the workers' firm of articles like or directly y the firm or subdivision. ther duly authorized rep- ation of eligibility to apply ter D with the Governor or subdivision is located. nor must notify the Sec- after, the Governor must er the petition meets the petition, together with a refor, to the Secretary for native, the Governor will ljustment services author- available to the workers. ition, the Secretary must the certification criteria. Secretary will issue to ation of eligibility to apply

for comprehensive assistance. Upon denial of certification, the Secretary will review the petition to determine if the workers meet the requirements of the TAA program for certification.

Certified workers under the NAFTA program receive employment services, training, trade readjustment allowances, and job search and relocation allowances in the same manner and to the same extent as workers covered under a TAA certification, with the following exceptions: (1) the total amount of payments for training costs for any fiscal year do not exceed \$30 million; (2) with respect to TRA benefits, the authority of the Secretary of Labor to waive the training requirement does not apply with respect to payments under subchapter D; and (3) to receive TRA benefits, the worker must be enrolled in a training program approved by the Secretary by the later of the last day of the 16th week of the worker's initial UI benefit period or the last day of the 6th week after the week in which the Secretary issues a certification covering the worker. In extenuating circumstances, the Secretary may extend the time for enrollment for not more than 30 days.

The NAFTA program took effect on January 1, 1994, the date the NAFTA entered into force for the United States. No worker can be certified as eligible to receive assistance under subchapter D whose last total or partial separation occurred before January 1, except for those workers whose last layoff occurred after December 8 (the date of enactment of the NAFTA Implementation Act) and before January 1 who would otherwise be eligible to receive assistance under subchapter D.

TRADE ADJUSTMENT ASSISTANCE PROGRAM FOR FIRMS

Sections 251 through 264 of the Trade Act of 1974, as amended, contain the procedures, eligibility requirements, benefits and their terms and conditions, and administrative provisions of the trade adjustment assistance program for firms adversely impacted by increased import competition. The program is administered by the Economic Development Administration within the Department of Commerce. Amendments in 1986 under the COBRA eliminated financial assistance (direct loan or loan guarantee) benefits, increased government participation in technical assistance, and expanded the criteria for firm certification.

Program benefits consist exclusively of technical assistance for petitioning firms which qualify under a two-step procedure: (1) certification by the Secretary of Commerce that the petitioning firm is eligible to apply, and (2) approval by the Secretary of Commerce of the application by a certified firm for benefits, including the firm's proposal for economic adjustment.

To certify a firm as eligible to apply for adjustment assistance, the Secretary must determine that three conditions are met:

1. A significant number or proportion of the workers in the firm have been or are threatened to be totally or partially laid off;
2. Sales and/or production of the firm have decreased absolutely, or sales and/or production that accounted for at least 25 percent of total production or sales of the firm during the 12 months preceding the most recent 12-month period for which data are available have decreased absolutely; and

3. Increased imports of articles like or directly competitive with articles produced by the firm have "contributed importantly" to both the layoffs and the decline in sales and/or production.

The 1988 amendments expanded potential eligibility coverage of the program to include firms that engage in exploration or drilling for oil or natural gas. Unlike the worker program, this extension applies only prospectively after August 23, 1988.

A certified firm may file an application with the Secretary of Commerce for trade adjustment assistance benefits at any time within 2 years after the date of the certification of eligibility. The application must include a proposal by the firm for its economic adjustment. The Secretary may furnish technical assistance to the firm in preparing its petition for certification and/or in developing a viable economic adjustment proposal.

The Secretary approves the firm's application for assistance only if he determines that its adjustment proposal (a) is reasonably calculated to make a material contribution to the economic adjustment of the firm; (b) gives adequate consideration to the interests of the workers in the firm; and (c) demonstrates that the firm will make all reasonable efforts to use its own resources for economic development.

Benefits

Technical assistance may be given to implement the firm's economic adjustment proposal in addition to, or in lieu of, precertification assistance or assistance in developing the proposal. It may be furnished through existing government agencies or through private individuals, firms, and institutions (including private consulting services), or by grants to intermediary organizations, including regional Trade Adjustment Assistance Centers. As amended by the COBRA, the Federal Government may bear the full cost of technical assistance to a firm in preparing its petition for certification. However, the Federal share cannot exceed 75 percent of the cost of assistance furnished through private individuals, firms, or institutions for developing or implementing an economic adjustment proposal. Grants may be made to intermediate organizations to defray up to 100 percent of their administrative expenses in providing technical assistance.

The Secretary of Commerce also may provide technical assistance of up to \$10 million annually per industry to establish industry-wide programs for new product or process development, export development, or other uses consistent with adjustment assistance objectives. The assistance may be furnished through existing agencies, private individuals, firms, universities, and institutions, and by grants, contracts, or cooperative agreements to associations, unions, or other nonprofit organizations of industries in which a substantial number of firms or workers have been certified.

Funding

Funds to cover all costs of the program are subject to annual appropriations to the EDA of the Department of Commerce from general revenues. For fiscal year 1995, a total of \$10.0 million was appropriated for the program.

Chapter 3: OT

Authorities To Res

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Section 204 of the *Trade Agreements Act of 1940* authorizes the President to enter into trade agreements to limit their effects on the United States. The authority is derived from the governing the entry of goods into the United States. The authority is concluded under this section if the agreement is concluded under this section of world trade in the United States. The issue regulations governing the entry of goods into the United States which are not permitted under the United States trade agreements to which the United States is a party.

The authority provided in Section 204 of the *Trade Agreements Act of 1940* provides for the negotiation of bilateral trade agreements with the United States and the European Community for certain cheeses from the United States on a basis for the GATT Agreement on Textiles, commonly known as the MFA,⁴ for U.S. bilateral trade agreements with other nations, and currently the Uruguay Round of the General Agreement on Tariffs and Trade which replaces the now

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The Multifiber Arrangement (MFA) was established under the auspices of the General Agreement on Tariffs and Trade. The MFA provides principles for the negotiation of trade agreements for the importation and exportation of textiles and apparel. Since 1974, the MFA has been a major factor in the textile market disruption in textile and apparel industries in many countries to share in expan

¹ Public Law 84-540, ch. 327, 80 Stat. 1734, approved June 19, 1966, as amended, Dec. 8, 1994.

² Exec. Order No. 11539, June 12, 1974, 39 Fed. Reg. 12188, Jan. 2, 1980, 45 Fed. Reg. 12188.

³ Exec. Order No. 11851, April 1, 1977, 42 Fed. Reg. 12188.

⁴ Arrangement Regarding International Trade in Textiles.

⁵ In force as of December 31, 1994.

TO THE CONGRESS OF THE UNITED STATES:

I am pleased to transmit a legislative proposal entitled the "Export Expansion and Reciprocal Trade Agreements Act of 1997." Also transmitted is a section-by-section analysis.

This proposal would renew over 60 years of cooperation between the Congress and the Executive Branch in the negotiation and implementation of market-opening trade agreements for the benefit of American workers and companies.

The sustained, robust performance of our economy over the past five years is powerful proof that Congressional-Executive cooperation works. We have made great strides together. We have invested in education and in health care for the American people. We have achieved an historic balanced budget agreement. At the same time, we have put in place trade agreements that have lowered barriers to American products and services around the world.

Our companies, farms, and working people have responded. Our economy has produced more jobs, more growth, and greater economic stability than at any time in decades. It has also generated more exports than ever before. Indeed, America's remarkable economic performance over the past five years has been fueled in significant part by the strength of our dynamic export

sector. Fully 96 percent of the world's consumers live outside the United States. Many of our greatest sales opportunities today lie outside our borders. The future promises still greater opportunities.

Many foreign markets, especially in the developing world, are growing at tremendous rates. Latin American and Asian economies, for example, are expected to expand at three times the rate of the U.S. economy over the coming years. Consumers and industries in these countries prize American goods, farm products, and services, and the many expressions of American ingenuity and culture. While America is the world's greatest exporting nation, we need to do more if we want to continue to expand our own economy and produce good, high-wage jobs for our children.

We have made real progress in breaking down barriers to American products around the world, particularly in developed countries like those in Europe. But many of the nations with the highest growth rates are in the developing world, and they almost invariably impose far higher trade barriers than we do. We need to level the trade playing field with those countries. They are the nations whose markets hold the greatest potential for American workers and firms.

Today, the United States is the world's strongest competitor. The strength of the U.S. economy over the past several years is testimony to the creativity, productivity, and ingenuity of American firms and workers. We cannot afford to squander our great advantages by retreating to the sidelines and watching other countries conclude preferential trade deals that shut out our goods and services. Over twenty such agreements have been concluded in Latin America and Asia since 1992. The United States must continue to shape and direct world trade to our advantage, and to foster democracy and stability around the world.

I have pledged my Administration to this task, but I cannot fully succeed without the Congress at my side. We must work in partnership, together with the American people, in securing our country's future. The United States must be united when we sit down at the negotiating table. Our trading partners will only negotiate with one America -- not first with an American President and next with an American Congress.

The proposal I am sending you today ensures that the Congress will be a full partner in setting negotiating objectives, establishing trade priorities, and in gaining the greatest possible benefits through our trade agreements. The

proposal goes well beyond any previous fast-track legislation in ensuring that the Congress is fully apprised and actively consulted throughout the negotiating process. I am convinced that this collaboration will strengthen both America's effectiveness and leverage at the bargaining table.

Widening the scope of consultations will also help ensure that we will take all of America's vital interests into account. That is particularly important because today our trade agreements address a wider range of activities than they one did. As we move forward with our trade agenda, we must continue to honor and reinforce the other values that make America an example for the world. I count chief among these values America's long-standing concern for the rights of workers and for the environment. The proposal I am transmitting to you recognizes the importance of those concerns. It makes clear that the trade agreements we conclude will complement and reinforce those values.

Ever since President Roosevelt proposed and the Congress enacted America's first reciprocal trade act in the heart of the Great Depression, the Congress and the President have been united, on a bipartisan basis, in supporting a fair and open trading system. Our predecessors learned from direct experience the path to America's prosperity. We owe much of our own

prosperity to their wisdom. I urge the Congress to renew our long-standing partnership by approving the proposal I have transmitted today.

Section-by-Section Analysis

Section 1. Short Title.

Section 2. Negotiating Objectives.

Section 2 of the proposal sets out the "overall" and "principal" objectives that will guide the President in negotiating future trade agreements covered by the proposal. This format parallels that of section 1101 of the Omnibus Trade and Competitiveness Act of 1988, which in turn was based on a similar structure in the Trade Act of 1974.

In order for a trade agreement to qualify for fast-track treatment, it must make progress toward one or more of the principal objectives set out in section 2(b). These objectives address, among other subjects, agricultural exports, intellectual property, the protection of worker rights and the environment under the World Trade Organization, trade in services, U.S. foreign investment, and specific barriers to trade, including foreign government policies and practices directly related to trade.

Section 2(c) calls on U.S. negotiators to take important domestic policy objectives, such as the protection of human health and the environment and national security, into account when negotiating fast track trade agreements. Negotiators are also instructed to ensure that the United States will retain the ability to vigorously enforce U.S. trade laws and that official Congressional advisors are kept fully informed during the course of trade negotiations.

Section 3. Proclamation Authority and Fast-Track Implementing Proposals.

Section 3(a) provides the President with authority to reduce U.S. tariff rates -- without seeking further approval from the Congress -- in return for concessions from U.S. trading partners. Much of the language on this subject is derived from earlier versions of tariff proclamation authority, with antecedents dating back to the mid-1930s. The proposal adds a provision that will allow the President to implement new sectoral tariff harmonization or elimination agreements under the World Trade Organization, subject to a Congressional notice and layover

requirement. The proposal also permits the President to carry out tariff elimination and harmonization agreements, subject to notice and layover, concluded as an interim step towards a regional free-trade arrangement.

Section 3(b) provides that the President may negotiate and bring back to the Congress for approval and implementation under the fast track procedures set out in section 151 of the Trade Act of 1974 certain trade agreements addressing non-tariff barriers or both non-tariff and tariff barriers. Those procedures call for the Congress to vote on agreements and their implementing legislation without amendment and within a fixed period. Changes in U.S. law required to carry out a trade agreement may be included in fast track implementing legislation only if the changes are both necessary or appropriate to implement the agreement and are trade-related. For an implementing bill to be subject to fast-track Congressional review, the President must adhere to numerous notice and consultation requirements included in the proposal.

Under the proposal, the President's tariff proclamation authority, as well as fast track procedures for implementing legislation, will be in effect until October 1, 2001. On request from the President, proclamation authority and fast track procedures may be extended until October 1, 2005, subject to disapproval by either House of Congress.

Sections 4 and 5. Notice, Consultations, and Implementation.

Sections 4 and 5 contain a number of provisions requiring the President to notify and consult with the Congress before and during trade negotiations. These provisions ensure that the Congress is fully integrated into the formulation of U.S. goals, strategies, and decision-making for each trade negotiation. Section 5 establishes an expedited procedure for Congress to withdraw fast track if it finds that the Administration is not adequately consulting the Congress on trade negotiations.

A number of the notice and consultation requirements included in sections 4 and 5 are drawn from equivalent provisions in the Omnibus Trade and Competitiveness Act of 1988. For example, the President must provide advance notice to the Congress before initiating a negotiation and must consult with the Congress

before an agreement is concluded. The President must also describe in detail at the time he submits implementing legislation to the Congress how he intends to use existing regulatory and administrative authority to carry out the agreement.

The proposal also provides for Congress and the President to receive advice from the relevant private sector advisory committees concerning any agreement that the President has negotiated -- before it is signed. The advisory committees cover a broad range of sectors and policy matters, including manufactured goods, agricultural commodities, services, intellectual property, labor, and the environment. Under existing law, the President must also consult with these committees regarding his objectives and bargaining positions in the negotiations. In addition, in advance of the negotiations, the President must solicit advice from the United States International Trade Commission, as well as views from the public, concerning any U.S. tariff reductions contemplated in the negotiations.

The proposal adds new consultation requirements to further enhance Congressional oversight of the negotiation process. For example, the President must spell out for the Congress before negotiations begin his principal negotiating objectives and is required to consult with the Congress over the course of the negotiations. In addition, the President must inform the Congress of any other agreements he intends to conclude and must state whether the trade agreement will require implementing legislation in addition to that subject to fast-track procedures.

Section 6. On-going Negotiations.

The proposal waives the requirement for the President to provide advance notification to the Congress of certain negotiations initiated prior to enactment of the proposal. These include negotiations commenced in 1995 with the Government of Chile on a comprehensive trade agreement and certain negotiations currently in progress under the auspices of the World Trade Organization.

Section 7. Conforming Amendments.

The proposal makes changes to other statutes necessary to ensure that provisions of law applicable to fast track trade agreements continue to apply. For example, these amendments ensure that the public and private sector views are solicited regarding any trade negotiations initiated under the proposal.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

The Export Expansion and Reciprocal Trade Agreements Act of 1997

Today, President Clinton transmitted to the Congress the "Export Expansion and Reciprocal Trade Agreements Act of 1997." This proposal is designed to renew "fast track" procedures for trade agreements requiring Congressional approval and implementation as well as to renew the President's authority to proclaim tariff reductions pursuant to reciprocal commitments by U.S. trading partners.

The proposal reactivates a partnership between the President and the Congress that dates back over six decades. Recognizing that the high protective U.S. tariff walls it established in 1930 had only served to deepen the Depression, Congress four years later enacted the first reciprocal trade agreements act. In that act, Congress gave the President authority to negotiate mutual tariff reductions with our trading partners. Congress renewed that authority repeatedly over the years, and successive Presidents used the authority to dramatically reduce tariff barriers around the world.

"Fast track," first put in place under the Ford Administration, is further expression of partnership between the President and the Congress in bringing down barriers to U.S. exports. Fast track is a procedure under which the Congress and the President work together to ensure that the United States can effectively negotiate away non-tariff barriers -- such as quotas, protectionist product standards, and subsidies -- that foreign governments have increasingly substituted for tariffs to exclude U.S. products.

Fast track has been used to negotiate five major trade agreements, beginning with the Tokyo Round of GATT negotiations, signed in 1979. Fast track lapsed along with most of the President's tariff reduction authority three years ago.

The President's proposed legislation serves to reunite the Congress and the President in trade negotiations. The President's proposal, ensures that the Congress is fully integrated into the formulation of U.S. goals, strategies, and decision-making for each trade negotiation subject to fast track procedures. Because the Congress and the President are united under the proposal, it tells U.S. trading partners that they can trust the United States not to reopen trade deals after they are struck.

The proposal also renews the President's long-standing tariff authority. The proposal adds provisions specifically directed at eliminating tariffs in sectors of greatest economic interest to U.S. exporters. It also provides the President authority to carry out reciprocal tariff elimination agreements on a regional basis as a first step towards a regional free-trade arrangement.

The proposal calls for the President's renewed tariff authority and for the new fast track procedures to remain in effect until October 1, 2001. The President may request an extension of the proclamation authority and "fast track" procedures through September 30, 2005. The extension will take effect unless disapproved by either House of the Congress.

Key provisions of the proposal are as follows:

- The proposal sets out "overall" and "principal" trade negotiating objectives for the President. The objectives call on U.S. negotiators to seek, for example:
 - to reduce foreign government barriers that discriminate or impose unreasonable regulatory barriers on services providers.
 - to obtain adequate and effective protection for U.S. intellectual property rights and increased access to foreign markets for U.S. businesses that rely on intellectual property.
 - To secure fairer and more open conditions of trade for U.S. food products.

- To make the proceedings of international trade bodies more open to public view.
 - To promote through the World Trade Organization internationally recognized worker rights and sustainable development so that trade reinforces and complements labor rights and environmental protection.
 - To reduce specific foreign trade barriers that reduce market opportunities for U.S. exports or that distort U.S. trade.
- The President may negotiate and bring back to the Congress for fast track Congressional approval and implementation trade agreements addressing non-tariff barriers or both tariff and non-tariff barriers.
 - Thus, fast track could be used to carry out agreements concluded as part of the trade negotiating agenda set out in the Congressionally-approved agreements administered by the World Trade Organization -- for example, further reductions in tariff and non-tariff barriers to agricultural trade.
 - The President could use the renewed "proclamation authority" to carry out an agreement like the recent "Information Technology Agreement," which is reducing tariffs that foreign governments impose on billions of dollars of U.S. computer, electronic, and semiconductor products sold around the world.
 - Finally, fast track could be used for bilateral or regional free-trade arrangements.
 - In order for an implementing bill to qualify for fast-track procedures, the President must comply with numerous notice and consultation provisions designed to ensure that the Congress is a full partner with the President in critical trade negotiations. These provisions enable the Congress to set priorities, provide advice, and exercise oversight at all stages of the negotiations, and after the agreement is concluded. That means Congressional views will be fully reflected both in the final agreement and in the manner in

which the agreement is to be carried out. Moreover, if the Congress concludes that the President has not adequately consulted the Congress regarding a proposed agreement, the proposal creates an expedited procedure for the Congress to refuse to apply fast-track procedures.

- The proposal adds to existing law in ensuring that the public is fully informed of the negotiations and that the President receives advice from both the private sector and the public concerning the negotiations.
- Among the requirements that the President must carry out in connection with fast-track negotiations are the following:
 - The President must provide written notice to the Congress before initiating negotiations and must spell out in writing his principal objectives for the negotiations.
 - The President must solicit views from the public, and the United States International Trade Commission, before making an offer in a trade negotiation to reduce U.S. tariffs. Under the proposal, the President must in addition issue a public notice of any agreement in advance of signing it.
 - The President must consult with the Congress as negotiations progress and again before an agreement is concluded. The proposal calls on U.S. negotiators to keep official Congressional advisors fully informed regarding the negotiations.
 - Before signing an agreement, the President must inform the Congress of any other agreements he intends to conclude with the countries concerned. He must also state his plans for implementing the trade agreement and whether the agreement will require additional legislation beyond that subject to fast-track procedures.
 - Any fast-track agreement that the President concludes must make progress towards one or more of the principal trade negotiating objectives set out in the proposal.

- The proposal adds to the existing requirement that the President must seek the views of Congressionally-authorized private sector advisory committees during the course of the negotiations. These groups include advisory committees on goods, services, agriculture, intellectual property, labor, intergovernmental affairs, and the environment, among others. The proposal ensures that these committees also examine and provide their views to the Congress and the President on any proposed agreement -- before it is signed.
- The proposal requires the President to describe at the time he submits implementing legislation to the Congress how he intends to use existing regulatory and administrative authority to carry out the agreement. He must also explain in writing how the agreement meets Congressionally-mandated negotiating objectives and serves U.S. economic interests.
- Under well-established practice, the President collaborates with the Congress in drafting the implementing legislation and the legislation is subject to informal public hearings and "mark-ups" by all Congressional committees of jurisdiction before its introduction.
- Agreements for which the President has observed each of the proposal's notice, consultation, and other procedures are subject to fast-track consideration in the Congress. Fast track rules call for the Congress to vote on qualifying trade agreements and implementing legislation without amendment within 60 "legislative days" -- typically a period in excess of several months.
- Under the President's proposal, new statutory provisions or other changes in U.S. law required to carry out a trade agreement may be included in fast-track implementing legislation only if the changes are both: (1) necessary or appropriate to implement the agreement; and (2) related to trade. This requirement prevents fast-track bills from being used to enact non-trade provisions.

- Under the renewed "proclamation authority" the President would be authorized to carry out agreements that reduce by up to 50 percent U.S. tariffs that currently exceed 5 percent *ad valorem*. The President could eliminate duties of 5 percent or less. The proposal also allows the President to eliminate tariffs in connection with new multilateral reciprocal tariff agreements in particular sectors, as well as to carry out reciprocal tariff elimination agreements as a step towards regional free-trade areas.

#

A BILL

To establish procedures for notice, consultations, and implementation with regard to certain trade agreements, and for other purposes.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

1 SEC. 1. SHORT TITLE.

2 This Act may be cited as the "Export Expansion and
3 Reciprocal Trade Agreements Act of 1997".

4 SEC. 2. TRADE NEGOTIATING OBJECTIVES.

5 (a) OVERALL TRADE NEGOTIATING OBJECTIVES. - The
6 overall trade negotiating objectives of the United States for
7 agreements subject to the provisions of section 3 are -

8 (1) to obtain more open, equitable, and reciprocal
9 market access;

10 (2) to obtain the reduction or elimination of barriers
11 and distortions that are directly related to trade;

12 (3) to further strengthen the system of international

1 trading disciplines and procedures;

2 (4) to foster economic growth, raise living
3 standards, and promote full employment in the United
4 States and to enhance the global economy; and

5 (5) to address those aspects of foreign government
6 policies and practices regarding labor, the environment,
7 and other matters that are directly related to trade and
8 decrease market opportunities for United States exports or
9 distort United States trade.

10 (b) PRINCIPAL TRADE NEGOTIATING OBJECTIVES.-

11 (1) SPECIFIC BARRIERS. - The principal negotiating
12 objectives of the United States regarding specific trade
13 barrier and other trade distortions are to expand
14 competitive market opportunities for United States
15 exports and to obtain fairer and more open conditions of
16 trade by reducing or eliminating tariff and nontariff
17 barriers and policies and practices of foreign governments
18 directly related to trade that decrease market opportunities
19 for United States exports or distort United States trade.

20 (2) TRADE IN SERVICES. - The principal negotiating
21 objective of the United States regarding trade in services

1 is to reduce or eliminate barriers to international trade in
2 services, including regulatory and other barriers that deny
3 national treatment and unreasonably restrict the
4 establishment and operations of service suppliers.

5 (3) FOREIGN INVESTMENT. - The principal
6 negotiating objective of the United States regarding foreign
7 investment is to reduce or eliminate artificial or trade-distorting
8 barriers to United States foreign investment by -

9 (A) reducing or eliminating exceptions to the
10 principle of nondiscriminatory treatment;

11 (B) freeing the transfer of funds relating to
12 investments;

13 (C) reducing or eliminating performance
14 requirements and other unreasonable barriers to the
15 establishment and operation of investments;

16 (D) establishing standards for expropriation
17 and compensation for expropriation consistent with
18 United States legal principles and practice; and

19 (E) providing meaningful procedures for
20 resolving investment disputes.

21 (4) INTELLECTUAL PROPERTY. - The principal

1 negotiating objectives of the United States regarding
2 trade-related intellectual property are -

3 (A) to further promote adequate and effective
4 protection of intellectual property rights, including
5 through -

6 (i) ensuring full implementation of the
7 Agreement on Trade-Related Aspects of
8 Intellectual Property Rights referred to in
9 section 101(d)(15) of the Uruguay Round
10 Agreements Act (19 U.S.C. 3511(d)(15)), and
11 achieving improvements in the standards of
12 that Agreement;

13 (ii) providing strong protection for new
14 and emerging technologies and new methods
15 of transmitting and distributing products
16 embodying intellectual property;

17 (iii) preventing or eliminating
18 discrimination with respect to matters
19 affecting the availability, acquisition, scope,
20 maintenance, use, and enforcement of
21 intellectual property rights; and

1 (iv) providing strong enforcement of
2 intellectual property rights, including through
3 accessible, expeditious, and effective civil,
4 administrative, and criminal enforcement
5 mechanisms; and

6 (B) to secure fair, equitable, and
7 nondiscriminatory market access opportunities for
8 United States persons that rely upon intellectual
9 property protection.

10 (5) TRANSPARENCY. - The principal negotiating
11 objective of the United States with respect to transparency
12 is to obtain broader application of the principle of
13 transparency through -

14 (A) increased and more timely public access
15 to information regarding trade issues and the
16 activities of international trade institutions; and

17 (B) increasing the openness of dispute
18 settlement proceedings, including under the World
19 Trade Organization.

20 (6) AGRICULTURE. - The principal negotiating
21 objective of the United States with respect to agriculture

1 is to achieve fairer and more open conditions of trade in
2 agricultural commodities by -

3 (A) reducing or eliminating tariffs or other
4 charges that decrease market opportunities for
5 United States exports;

6 (B) reducing or eliminating subsidies that
7 decrease market opportunities for United States
8 exports or distort agricultural markets to the
9 detriment of the United States;

10 (C) developing, strengthening, and clarifying
11 rules that address practices that unfairly decrease
12 United States market access opportunities or distort
13 agricultural markets to the detriment of the United
14 States, including -

15 (i) unfair or trade-distorting activities of
16 state trading enterprises and other
17 administrative mechanisms;

18 (ii) unjustified restrictions or
19 commercial requirements affecting new
20 technologies, including genetically modified
21 organisms;

1 (iii) unjustified sanitary or phytosanitary
2 restrictions;

3 (iv) other unjustified technical barriers to
4 trade; and

5 (v) restrictive rules in the administration
6 of tariff rate quotas.

7 (7) WORKER RIGHTS AND ENVIRONMENTAL
8 PROTECTION. - The principal negotiating objectives of the
9 United States regarding worker rights and protection of
10 the environment are, through the World Trade
11 Organization, -

12 (A) to promote respect for internationally
13 recognized worker rights, including with regard to
14 child labor;

15 (B) to secure a review of the relationship of
16 worker rights to the provisions, objectives, and
17 instruments of the World Trade Organization with
18 a view to ensuring that the benefits of the trading
19 system are available to all workers;

20 (C) to adopt, as a principle of the World Trade
21 Organization, that the denial of internationally

1 recognized worker rights should not be a means for
2 a country or its industries to gain competitive
3 advantage in international trade;

4 (D) to promote sustainable development; and

5 (E) to seek to ensure that trade and
6 environmental protection are mutually supportive,
7 including through further clarification of the
8 relationship between them.

9 The United States will also seek to establish in the
10 International Labor Organization a mechanism for the
11 systematic examination of, and reporting on, the extent to
12 which member governments protect internationally
13 recognized worker rights and enforce core labor
14 standards.

15 (c) GUIDANCE FOR NEGOTIATORS. -

16 (1) In pursuing the negotiating objectives described
17 in subsection (b), United States negotiators shall take into
18 account United States domestic objectives including, but
19 not limited to, the protection of health or safety, essential
20 security, environmental, consumer or employment
21 opportunity interests and the law and regulations related

1 thereto.

2 (2) In the course of negotiations conducted under
3 this act, the United States Trade Representative shall -

4 (A) consult closely and on a timely basis with,
5 and make every effort to keep fully apprised of the
6 negotiations, the congressional advisers on trade
7 policy and negotiations appointed under section 161
8 of the Trade Act of 1974; and

9 (B) take into account the need for the United
10 States to retain the ability to enforce rigorously its
11 trade laws in order to ensure that United States
12 workers, farmers, and firms can compete on fair
13 terms and enjoy the benefits of reciprocal trade
14 concessions.

15 (d) ADHERENCE TO OBLIGATIONS UNDER URUGUAY
16 ROUND AGREEMENTS. - In determining whether to enter into
17 negotiations with a particular country, the President shall take
18 into account the extent to which that country has implemented,
19 or has accelerated the implementation of, its obligations under
20 the Uruguay Round Agreements (as defined in section 2 of the
21 Uruguay Round Agreements Act).

1 **SEC. 3. TRADE AGREEMENTS PROCEDURES.**

2 (a) AGREEMENTS REGARDING TARIFF BARRIERS. -

3 (1) IN GENERAL. - Whenever the President
4 determines that one or more existing duties or other
5 import restrictions of any foreign country or the United
6 States are unduly burdening and restricting the foreign
7 trade of the United States and that the purposes and
8 policies of this Act will be promoted thereby, the President

9 -

10 (A) before October 1, 2001 (or October 1,
11 2005, if fast track procedures are extended under
12 subsection (c)), may enter into trade agreements
13 with foreign countries; and

14 (B) may, subject to paragraphs (2) and (3),
15 proclaim -

16 (i) such modification or continuance of
17 any existing duty,

18 (ii) such continuance of existing duty-
19 free or excise treatment, or

20 (iii) such additional duties,

21 as the President determines to be required or

1 appropriate to carry out any such trade agreement.

2 (2) LIMITATIONS. - No proclamation may be made
3 under paragraph (1) that -

4 (A) reduces any rate of duty (other than a rate
5 of duty that does not exceed 5 percent ad valorem
6 on the date of the enactment of this Act) to a rate of
7 duty which is less than 50 percent of the rate of such
8 duty that applies on such date of enactment;

9 (B) provides for a reduction in duty on an
10 article to take effect on a date that is more than 10
11 years after the first reduction that is proclaimed to
12 carry out a trade agreement with respect to such
13 article; or

14 (C) increases any rate of duty above the rate
15 that applied on January 1, 1995.

16 (3) AGGREGATE REDUCTION; EXEMPTION FROM
17 STAGING. -

18 (A) AGGREGATE REDUCTION. - Except as
19 provided in subparagraph (B), the aggregate
20 reduction in the rate of duty on any article which is
21 in effect on any day pursuant to a trade agreement

1 entered into under paragraph (1) shall not exceed
2 the aggregate reduction which would have been in
3 effect on such day if -

4 (i) a reduction of 3 percent ad valorem
5 or a reduction of one-tenth of the total
6 reduction, whichever is greater, had taken
7 effect on the effective date of the first
8 reduction proclaimed under paragraph (1) to
9 carry out such agreement with respect to such
10 article, and

11 (ii) a reduction equal to the amount
12 applicable under clause (i) had taken effect at
13 1-year intervals after the effective date of such
14 first reduction.

15 (B) EXEMPTION FROM STAGING. - No
16 staging is required under subparagraph (A) with
17 respect to a duty reduction that is proclaimed under
18 paragraph (1) for an article of a kind that is not
19 produced in the United States. The United States
20 International Trade Commission shall advise the
21 President of the identity of articles that may be

1 exempted from staging under this subparagraph.

2 (4) ROUNDING. - If the President determines that
3 such action will simplify the computation of reductions
4 under paragraph (3), the President may round an annual
5 reduction by an amount equal to the lesser of -

6 (A) the difference between the reduction
7 without regard to this paragraph and the next lower
8 whole number; or

9 (B) one-half of 1 percent ad valorem.

10 (5) OTHER LIMITATIONS. - A rate of duty reduction
11 or increase that may not be proclaimed by reason of
12 paragraph (2) may take effect only if a provision
13 authorizing such reduction or increase is included within
14 an implementing bill provided for under section 5 and that
15 bill is enacted into law.

16 (6) OTHER TARIFF MODIFICATIONS. -

17 (A) Subject to the consultation and layover
18 requirements of section 115 of the Uruguay Round
19 Agreements Act, the President may proclaim the
20 modification of any duty or staged rate reduction of
21 any duty set forth in Schedule XX, as defined in

1 section 2(5) of that Act, if the United States agrees
2 to such modification or staged rate reduction in a
3 negotiation for the reciprocal elimination or
4 harmonization of duties under the auspices of the
5 World Trade Organization or as part of an interim
6 agreement leading to the formation of a regional
7 free-trade area.

8 (B) Paragraphs 1-5 of this subsection shall not
9 limit the authority provided to the President in
10 subparagraph (A) or in section 111(b) of the
11 Uruguay Round Agreements Act.

12 (b) AGREEMENTS REGARDING TARIFF AND NON-TARIFF
13 BARRIERS. -

14 (1) IN GENERAL. - Whenever the President
15 determines that -

16 (A) one or more existing duties or other
17 import restrictions of any foreign country or the
18 United States, or any other barrier to, or other
19 distortion of, international trade unduly burdens or
20 restricts the foreign trade of the United States or
21 adversely affects the United States economy; or

1 (B) the imposition of any such import
2 restriction, barrier, or distortion is likely to result in
3 such a burden, restriction, or effect;

4 and that the purposes and policies of this Act will be
5 promoted thereby, the President may, before October 1,
6 2001 (or October 1, 2005, if fast track procedures are
7 extended under subsection (c)), enter into trade
8 agreements with foreign countries providing for -

9 (i) the reduction or elimination of such
10 duty, restriction, barrier, or other distortion, or

11 (ii) the prohibition of, or limitation on
12 the imposition of, such barrier or other
13 distortion.

14 (2) CONDITIONS. - A trade agreement may be
15 entered into under this subsection only if such agreement
16 makes progress in meeting the applicable objectives
17 described in section 2(b) .

18 (3) BILLS QUALIFYING FOR "FAST TRACK"
19 PROCEDURES. -

20 (A) The provisions of section 151 of the Trade
21 Act of 1974, as amended by subparagraph (B) of

1 this paragraph, (in this Act referred to as “fast track
2 procedures”) apply to implementing bills (as
3 defined in subsection (b)(1) of such section)
4 submitted with respect to trade agreements entered
5 into under section (3)(b) of this act.

6 (B) Section 151(b)(1) of the Trade Act of
7 1974 is amended by striking subparagraph (C) and
8 inserting -

9 “(C)(i) if changes in existing laws or
10 new statutory authority is required to
11 implement such trade agreement or
12 agreements or such extension,
13 provisions which are necessary or
14 appropriate to implement such trade
15 agreement or agreements or extension
16 and which are trade-related, either
17 repealing or amending existing laws or
18 providing new statutory authority; and
19 (ii) provisions necessary for purposes of
20 complying with section 252 of the
21 Balanced Budget and Emergency Deficit

1 Control Act of 1985 in implementing
2 the applicable trade agreement.”

3 (c) APPLICATION AND EXTENSION OF “FAST TRACK”
4 PROCEDURES . -

5 (1) IN GENERAL. - Except as provided in section
6 5(b)-

7 (A) fast track procedures apply to
8 implementing bills submitted with respect to trade
9 agreements entered into under subsection (b) before
10 October 1, 2001; and

11 (B) fast track procedures shall be extended to
12 implementing bills submitted with respect to trade
13 agreements entered into under subsection (b) after
14 September 30, 2001, and before October 1, 2005, if
15 (and only if)-

16 (i) the President requests such extension
17 under paragraph (2); and

18 (ii) neither House of the Congress adopts
19 an extension disapproval resolution under
20 paragraph (5) before October 1, 2001.

21 (2) REPORT TO CONGRESS BY THE PRESIDENT. -

1 If the President is of the opinion that fast track procedures
2 should be extended to implementing bills described in
3 paragraph (1)(B), the President shall submit to the
4 Congress, not later than July 1, 2001, a written report that
5 contains a request for such extension, together with -

6 (A) a description of all trade agreements that
7 have been negotiated under subsection (b) and the
8 anticipated schedule for submitting such agreements
9 to the Congress for approval;

10 (B) a description of the progress that has been
11 made in negotiations to achieve the purposes and
12 policies of this act, and a statement that such
13 progress justifies the continuation of negotiations;
14 and

15 (C) a statement of the reasons why the
16 extension is needed to complete the negotiations.

17 (3) REPORT TO CONGRESS BY THE ADVISORY
18 COMMITTEE. - The President shall promptly inform the
19 Advisory Committee for Trade Policy and Negotiations
20 established under section 135 of the Trade Act of 1974
21 (19 U.S.C. 2155) of the President's decision to submit a

1 report to the Congress under paragraph (2). The Advisory
2 Committee shall submit to the Congress as soon as
3 practicable, but not later than August 1, 2001, a written
4 report that contains -

5 (A) its views regarding the progress that has
6 been made in negotiations to achieve the purposes
7 and policies of this act; and

8 (B) a statement of its views, and the reasons
9 therefor, regarding whether the extension requested
10 under paragraph (2) should be approved or
11 disapproved.

12 (4) REPORTS MAY BE CLASSIFIED. - The reports
13 submitted to the Congress under paragraphs (2) and (3),
14 or any portion of the reports, may be classified to the
15 extent the President determines appropriate.

16 (5) EXTENSION DISAPPROVAL RESOLUTIONS. -

17 (A) For purposes of this subsection, the term
18 "extension disapproval resolution" means a
19 resolution of either House of the Congress, the sole
20 matter after the resolving clause of which is as
21 follows: "That the ____ disapproves the request of

1 the President for the extension, under section
2 3(c)(1)(B)(i) of the Export Expansion and
3 Reciprocal Trade Agreements Act of 1997, of the
4 provisions of section 151 of the Trade Act of 1974
5 to any implementing bill submitted with respect to
6 any trade agreement entered into under section 3(b)
7 of the Export Expansion and Reciprocal Trade
8 Agreements Act of 1997 after September 30,
9 2001.”, with the blank space being filled with the
10 name of the resolving House of the Congress.

11 (B) Extension disapproval resolutions -

12 (i) may be introduced in either House of
13 the Congress by any member of such House;
14 and

15 (ii) shall be jointly referred, in the House
16 of Representatives, to the Committee on Ways
17 and Means and the Committee on Rules.

18 (C) The provisions of sections 152(d) and (e)
19 of the Trade Act of 1974 (19 U.S.C. 2192(d) and
20 (e)) (relating to the floor consideration of certain
21 resolutions in the House and Senate) apply to

1 extension disapproval resolutions.

2 (D) It is not in order for -

3 (i) the Senate to consider any extension
4 disapproval resolution not reported by the
5 Committee on Finance;

6 (ii) the House of Representatives to
7 consider any extension disapproval resolution
8 not reported by the Committee on Ways and
9 Means and the Committee on Rules; or

10 (iii) either House of the Congress to
11 consider an extension disapproval resolution
12 after September 30, 2001.

13 **SEC. 4. NOTICE AND CONSULTATIONS.**

14 (a) NOTICE AND CONSULTATION BEFORE
15 NEGOTIATION. - The President, at least 90 calendar days before
16 initiating negotiations on any agreement that is subject to the
17 provisions of section 3(b), shall -

18 (1) provide written notice to the Congress of the
19 President's intent to enter into the negotiations and set
20 forth therein the date the President intends to initiate such
21 negotiations, the specific United States objectives for the

1 negotiations, and whether the President intends to seek an
2 agreement or changes to an existing agreement; and

3 (2) before and after submission of the notice, consult
4 regarding the negotiations with the Committee on Finance
5 of the Senate and the Committee on Ways and Means of
6 the House of Representatives and such other committees
7 of the House and Senate as the President deems
8 appropriate.

9 (b) CONSULTATION WITH CONGRESS BEFORE
10 AGREEMENTS ENTERED INTO. -

11 (1) CONSULTATION. - Before entering into any
12 trade agreement under section 3(b), the President shall
13 consult with -

14 (A) the Committee on Ways and Means of the
15 House of Representatives and the Committee on
16 Finance of the Senate; and

17 (B) each other committee of the House and the
18 Senate, and each joint committee of the Congress,
19 which has jurisdiction over legislation involving
20 subject matters which would be affected by the
21 trade agreement.

1 (2) SCOPE. - The consultation described in
2 paragraph (1) shall include consultation with respect to -

3 (A) the nature of the agreement;

4 (B) how and to what extent the agreement will
5 achieve the applicable purposes and policies of this
6 act; and

7 (C) plans regarding the implementation of the
8 agreement under section 5, including whether the
9 agreement includes subject matter for which
10 supplemental implementing legislation may be
11 required which is not subject to fast track
12 procedures; and

13 (D) any other agreement or agreements the
14 President has entered into or intends to enter into
15 with the country or countries in question.

16 (c) ADVISORY COMMITTEE REPORTS. - The report
17 required under section 135(e)(1) of the Trade Act of 1974
18 regarding any trade agreement entered into under section 3(b)
19 of this Act shall be provided to the President, the Congress, and
20 the United States Trade Representative not later than 30
21 calendar days after the date on which the President notifies the

1 Congress under section 5(a)(1)(A) of the President's intention
2 to enter into the agreement.

3 **SEC. 5. IMPLEMENTATION OF TRADE AGREEMENTS.**

4 (a) IN GENERAL. -

5 (1) NOTIFICATION AND SUBMISSION. - Any
6 agreement entered into under section 3(b) shall enter into
7 force with respect to the United States if (and only if) -

8 (A) the President, at least 90 calendar days
9 before the day on which the President enters into the
10 trade agreement, notifies the House of
11 Representatives and the Senate of the President's
12 intention to enter into the agreement, and promptly
13 thereafter publishes notice of such intention in the
14 Federal Register;

15 (B) within 60 calendar days after entering into
16 the agreement, the President submits to the
17 Congress a description of those changes to existing
18 laws that the President considers would be required
19 in order to bring the United States into compliance
20 with the agreement;

21 (C) after entering into the agreement, the

1 President submits a copy of the final legal text of
2 the agreement, together with -

3 (i) a draft of an implementing bill;

4 (ii) a statement of any administrative
5 action proposed to implement the trade
6 agreement; and

7 (iii) the supporting information
8 described in paragraph (2); and

9 (D) the implementing bill is enacted into law.

10 (2) SUPPORTING INFORMATION. - The
11 supporting information required under paragraph
12 (1)(C)(iii) consists of -

13 (A) an explanation as to how the
14 implementing bill and proposed administrative
15 action will change or affect existing law; and

16 (B) a statement -

17 (i) asserting that the agreement makes
18 progress in achieving the applicable purposes
19 and policies of this act; and

20 (ii) setting forth the reasons of the
21 President regarding -

1 (I) how and to what extent the
2 agreement makes progress in achieving
3 the applicable purposes and policies
4 referred to in clause (i), and why and to
5 what extent the agreement does not
6 achieve other applicable purposes and
7 policies;

8 (II) whether and how the agreement
9 changes provisions of an agreement
10 previously negotiated;

11 (III) how the agreement serves the
12 interests of United States commerce;
13 and

14 (IV) why the implementing bill
15 and proposed administrative action are
16 required or appropriate to carry out the
17 agreement.

18 (3) RECIPROCAL BENEFITS. - To ensure that a
19 foreign country which receives benefits under a trade
20 agreement entered into under section 3(b) is subject to the
21 obligations imposed by such agreement, the President

1 shall recommend to Congress in the implementing bill
2 and statement of administrative action submitted with
3 respect to such agreement that the benefits and obligations
4 of such agreement apply solely to the parties to such
5 agreement, if such application is consistent with the terms
6 of such agreement. The President may also recommend
7 with respect to any such agreement that the benefits and
8 obligations of such agreement not apply uniformly to all
9 parties to such agreement, if such application is consistent
10 with the terms of such agreement.

11 (b) LIMITATIONS ON FAST TRACK PROCEDURES. -

12 (1) FOR LACK OF CONSULTATIONS. -

13 (A) Fast track procedures shall not apply to
14 any implementing bill submitted with respect to a
15 trade agreement entered into under section 3(b) if
16 both Houses of Congress separately agree to a
17 procedural disapproval resolution within any 60
18 calendar-day period.

19 (B) For purposes of this paragraph, the term
20 "procedural disapproval resolution" means a
21 resolution of either House of the Congress, the sole

1 matter after the resolving clause of which is as
2 follows: "That the President has failed or refused to
3 consult with the Congress on trade negotiations and
4 trade agreements in accordance with section 4(b) of
5 the Export Expansion and Reciprocal Trade
6 Agreements Act of 1997 and, therefore, the
7 provisions of section 151 of the Trade Act of 1974
8 shall not apply to any implementing bill submitted
9 with respect to any trade agreement entered into
10 under section 3(b) of the Export Expansion and
11 Reciprocal Trade Agreements Act 1997."

12 (2) PROCEDURES FOR CONSIDERING RESOLUTIONS. -

13 (A) PROCEDURAL DISAPPROVAL
14 RESOLUTIONS -

15 (i) in the House of Representatives -

16 (I) shall be introduced by the
17 chairman or ranking minority member
18 of the Committee on Ways and Means
19 or the chairman or ranking minority
20 member of the Committee on Rules;

21 (II) shall be jointly referred to the

1 Committee on Ways and Means and the
2 Committee on Rules; and

3 (III) may not be amended by either
4 Committee; and

5 (ii) in the Senate shall be original
6 resolutions of the Committee on Finance.

7 (B) The provisions of section 152(d) and (e) of
8 the Trade Act of 1974 (19 U.S.C. 2192(d) and (e))
9 (relating to the floor consideration of certain
10 resolutions in the House and Senate) apply to
11 procedural disapproval resolutions.

12 (C) It is not in order for the House of
13 Representatives to consider any procedural
14 disapproval resolution not reported by the
15 Committee on Ways and Means and the Committee
16 on Rules.

17 (c) RULES OF HOUSE REPRESENTATIVES AND SENATE. -

18 Subsection (b) of this section and section 3(c) are enacted by
19 the Congress -

20 (1) as an exercise of the rulemaking power of the
21 House of Representatives and the Senate, respectively,

1 and such are deemed a part of the rules of each House,
2 respectively, and such procedures supersede other rules
3 only to the extent that they are inconsistent with such
4 other rules; and

5 (2) with the full recognition of the constitutional
6 right of either House to change the rules (so far as relating
7 to the procedures of that House) at any time, in the same
8 manner, and to the same extent as any other rule of that
9 House.

10 **SEC. 6. TREATMENT OF CERTAIN TRADE AGREEMENTS.**

11 (a) NEGOTIATIONS UNDER THE WORLD TRADE
12 ORGANIZATION. - The provisions of section 4(a) shall not
13 apply to [add ITA II] an agreement which results from a
14 negotiation under the auspices of the World Organization
15 initiated under a Uruguay Round Agreement, as defined in
16 section 2 of the Uruguay Round Agreements Act, that were
17 commenced before the date of the enactment of this Act, and
18 the applicability of fast track procedures to such agreement
19 shall be determined without regard to the requirements of
20 section 4(a).

21 (b) AGREEMENT WITH CHILE. - If an agreement to which

1 section 3(b) applies is entered into with Chile after the date of
2 the enactment of this Act and results from negotiations that
3 were commenced before such date of enactment the provisions
4 of section 4(a) shall not apply to such agreement and the
5 applicability of fast track procedures to such agreement shall
6 be determined without regard to the requirements of section
7 4(a).

8 **SEC. 7. DEFINITIONS AND CONFORMING AMENDMENTS.**

9 (a) DEFINITIONS. - For purposes of this act:

10 (1) The term "core labor standards" means -

11 (A) the freedom to associate;

12 (B) the right to organize and bargain
13 collectively;

14 (C) a prohibition on forced labor;

15 (D) a prohibition on exploitative child labor;

16 and

17 (E) a prohibition on discrimination in
18 employment.

19 (2) The term "distortion" includes, but is not limited
20 to, a subsidy.

21 (3) The term "foreign country" includes any foreign

1 instrumentality. Any territory or possession of a foreign
2 country that is administered separately for customs
3 purposes, shall be treated as a separate foreign country.

4 (4) The term "internationally recognized worker
5 rights" has the meaning ascribed to that term in section
6 507(4) of the Trade Act of 1974, as amended.

7 (5) The term "trade" includes, but is not limited to -

8 (A) trade in both goods and services, and

9 (B) foreign investment by United States
10 persons, especially if such investment has
11 implications for trade in goods and services.

12 (b) CONFORMING AMENDMENTS. - Title I of the Trade
13 Act of 1974 (19 U.S.C. 2111 and following) is amended as
14 follows -

15 (1) Section 151(b)(1) (19 U.S.C. 2191(b)(1)) is
16 amended by striking "section 1103(a)(1) of the Omnibus
17 Trade and Competitiveness Act of 1988" " and inserting
18 " section 5(a)(1) of the Export Expansion and Reciprocal
19 Trade Agreements Act of 1997".

20 (2) Section 131 (19 U.S.C. 2151) is amended -

21 (A) in subsection (a) -

1 (i) in paragraph (1), by striking "section
2 123 of this Act or section 1102 (a) or (c) of
3 the Omnibus Trade and Competitiveness Act
4 of 1988," and inserting "section 123 of this
5 Act, section 1102 (a) or (c) of the Omnibus
6 Trade and Competitiveness Act of 1988, or
7 section 3(a) or (b) of the Export Expansion
8 and Reciprocal Trade Agreements Act of
9 1997,"; and

10 (ii) in paragraph (2), by striking "section
11 1102(b) of the Omnibus Trade and
12 Competitiveness Act of 1988" and inserting "
13 section 3 (b) of the Export Expansion and
14 Reciprocal Trade Agreements Act of 1997"
15 after "under" ; and

16 (B) in subsection (b), by replacing "section
17 1102(a)(3)(A) of the Omnibus Trade and
18 Competitiveness Act of 1988" with "section
19 3(a)(3)(A) of the Export Expansion and Reciprocal
20 Trade Agreements Act of 1997"; and

21 (C) in subsection (c), by replacing "section

1 1102 of the Omnibus Trade and Competitiveness
2 Act of 1988," with "section 3 of the Export
3 Expansion and Reciprocal Trade Agreements Act of
4 1997,".

5 (3) Sections 132, 133(a), 134(a), and 162(a) (19
6 U.S.C. 2152, 2153(a), 2154(a), and 2212(a)) are each
7 amended by striking "section 1102 of the Omnibus Trade
8 and Competitiveness Act of 1988," each place it appears
9 and inserting "section 3 of the Export Expansion and
10 Reciprocal Trade Agreements Act of 1997,".

11 (4) Section 134(b) (19 U.S.C. 2154(b)) is amended
12 by replacing "section 1102 of the Omnibus Trade and
13 Competitiveness Act of 1988" with "section 3 of the
14 Export Expansion and Reciprocal Trade Agreements Act
15 of 1997".

16 (5) Section 135(a)(1)(A) (19 U.S.C. 2155(a)(1)(A))
17 is amended by replacing "section 1102 of the Omnibus
18 Trade and Competitiveness Act of 1988" with "section 3
19 of the Export Expansion and Reciprocal Trade
20 Agreements Act of 1997".

21 (6) Section 135(e) (19 U.S.C. 2155(e)) is

1 amended -

2 (A) in paragraph (1), by replacing "section
3 1102 of the Omnibus Trade and Competitiveness
4 Act of 1988" with "section 3 of the Export
5 Expansion and Reciprocal Trade Agreements Act of
6 1997" each time it appears, and by replacing
7 "section 1103(a)(1)(A) of the Omnibus Trade and
8 Competitiveness Act of 1988" with "section
9 5(a)(1)(A) of the Export Expansion and Reciprocal
10 Trade Agreements Act of 1997"; and

11 (B) in paragraph (2), by replacing "section
12 1101 of the Omnibus Trade and Competitiveness
13 Act of 1988" with "section 2 of the Export
14 Expansion and Reciprocal Trade Agreements Act of
15 1997" after "1988".

16 (7) APPLICATION OF SECTIONS 125, 126, AND
17 127 OF THE TRADE Act OF 1974. - For purposes of
18 applying sections 125, 126, and 127 of the Trade Act of
19 1974 (19 U.S.C. 2135, 2136(a), and 2137) -

20 (1) any trade agreement entered into under section
21 3 shall be treated as an agreement entered into under

1 section 101 or 102, as appropriate, of the Trade Act of
2 1974 (19 U.S.C. 2111 or 2112); and

3 (2) any proclamation or Executive order issued
4 pursuant to a trade agreement entered into under section
5 3 shall be treated as a proclamation or Executive order
6 issued pursuant to a trade agreement entered into under
7 section 102 of the Trade Act of 1974.

Traditional Trading Authority Discussion Points for Calls to Republicans

Shared Objective. We both want to ensure that fast track authority is renewed. We believe in free trade, and we know that our future prosperity depends on it. We can get this done. Our team is fully committed to doing whatever it takes to get it done, and we hope we can work in the same spirit of trust and cooperation that allowed us to get the budget done.

Delayed Bill to Gain Bipartisan Support. We delayed introducing the bill for a couple of days to address the concerns of moderate Democrats whose votes are absolutely essential for passage. We listened to them and made some changes, but we fully expect criticism from the rest of the Democratic caucus and from labor. We believe we now have strong legislation that deserves support from both sides of the aisle.

Accepted Your Proposal on "Directly Related to Trade." Most importantly, we have accepted the Archer language on "directly related to trade." The President is firmly committed to ensuring that, in our push for free trade, we do not undermine labor and environmental standards. And we are prepared to pursue side agreements with Chile and other nations to promote stronger labor and environmental standards. Even so, we have adopted the Archer-Dreier language on "directly related," and we recognize its importance to the Republican caucus.

More Detailed Review of Provisions. Key provisions of the bill include:

- **Provision on Worker Rights and the Environment.** The principal negotiating objective on worker rights included in this legislation is symmetrical to that granted to President Bush, but does specifically mention the environment and child labor standards as well. It is limited to making progress in the World Trade Organization ("WTO") and the International Labor Organization ("ILO").
- **Necessary or Appropriate.** The bill would permit the Administration to include in future implementing bills those provisions that are "necessary or appropriate" to implement the relevant trade agreement, but only if those provisions are also "trade-related." As we have discussed, we need to strike a balance. We need flexibility to include provisions that, while not absolutely required to implement a particular trade agreement, nevertheless address trade policy issues raised by that agreement. But we also don't want to allow extraneous provisions in the fast track bill. We think this strikes the right balance.
- **Duration.** The duration of the trading authority extends to 2001, with extension until 2005 subject to a congressional vote.

- **Consultations with Congress.** We have added strong language to ensure Congress is a full partner in setting objectives and establishing trade priorities for American negotiators. Provisions never before included in fast track bills include: (1) a requirement that the Administration inform Congress of its negotiating objectives for a specific agreement before negotiations begin; (2) a requirement that the Administration consult before signing an agreement about parallel agreements, such as labor and environmental side agreements.
- **Negotiating Instructions.** We added a section on negotiating instructions that will ensure negotiators do nothing that would lower U.S. public health and safety standards, and insist upon strict enforcement of our trade laws.
- **Specific Agriculture Objective.** The legislation responds to congressional concerns by providing a series of measures designed to achieve fairer and more open conditions of agricultural trade, including: reducing or eliminating tariffs and subsidies that hurt U.S. agricultural exports and market opportunities; addressing other unjustified barriers to such exports; and strengthening the international rules covering unfair foreign practices that distort world agricultural markets. We think this principal negotiating objective will appeal to Members of both parties.
- **Chile.** We have specifically designated Chile as the next country with which we would negotiate a bilateral free trade agreement.

Would Like to Proceed in a Bipartisan Spirit. We have made a genuine attempt to write a bill Republicans can support, while attracting moderate Democrats as well. We think it is a good bipartisan bill, and we would like your support. At the very least, we would like generally positive statements (e.g. "Good start," "We can work with this"). We pledge to work closely with you as the bill is considered.

Traditional Trading Authority Discussion Points for Calls to Democrats

Held Bill Back to Listen to and Address Democratic Concerns. We held the bill back several days to hear the concerns of Democrats. We listened, and we believe we now have a bill that reflects the proper balance to address worker rights (including child labor standards) and environmental protection. Key provisions include:

- **Worker Rights.** Bill includes a negotiating objective on worker rights symmetrical to that granted President Bush by a Democratic Congress, with a specific reference to child labor. Also includes direction to seek stronger worker rights through the ILO, an idea proposed by Senator Moynihan and other Democrats.
- **Environment.** The negotiating objective also adds a specific provision on the environment, the first time ever this has been referenced in a fast track bill.
- **Agriculture.** Bill contains specific negotiating objective on agriculture, requested by Democrats.
- **Better Consultations.** Entirely new provisions requiring greater consultations, as to both the trade agreement and any labor/environmental side agreements.
- **Duration.** Authority granted until 2001, with extension until 2005 only after a congressional vote.

Bill Reflects Ongoing Commitment to Democratic Values. Overall, the President is committed to pursuing three objectives: (1) to break down unfair foreign trade barriers and create good American jobs; (2) to promote and advance worker rights; and (3) to promote responsible environmental protections. Throughout this process on fast track, our goal has been to ensure the President has the capacity to pursue all three objectives effectively.

- **Trade Agreements.** This bill permits labor/environmental provisions "directly related to trade" to be brought back to Congress under fast track authority. This is but one of many tools the President can use to advance his goals.
- **Side Agreements.** The President has extensive executive authority to reach labor/environmental agreements with countries. These agreements do not require congressional approval. We have already committed to conclude companion labor/environment agreements in future trade agreements where appropriate, and Chile has already agreed to enter such agreements.
- **Other Agreements.** The Clinton Administration has done more than any other to press countries to improve labor and environmental protection -- and we will continue to do so, whether through the ILO, the WTO, the UN, or international financial institutions. We should be concerned about improving conditions in all countries, not just in free trade partners.

More Detailed Review of Provisions. Key provisions include:

- **Necessary and Appropriate.** We have added language that will allow us to include in future implementing bills those provisions that are “necessary or appropriate” to implement the relevant trade agreement. The Administration and the Congress need flexibility to include in such bills provisions that, while not absolutely required to implement a particular trade agreement, nevertheless address trade policy issues raised by that agreement. These might include, for example, the agreement’s relationship to existing U.S. trade laws, authority to monitor the results of the agreement, or extending Trade Adjustment Assistance to help those American workers who do not share the benefits from expanded trade. Restricting future bills only to those provisions deemed “necessary” would prevent inclusion of these and other critically important provisions.
- **Duration.** The duration of the trading authority extends to 2001, with extension until 2005 only after a congressional vote.
- **Consultations with Congress.** We have added strong language to ensure Congress is a full partner in setting objectives and establishing trade priorities for American negotiators. Provisions never before included in fast track bills include: (1) a requirement that the Administration inform Congress of its negotiating objectives for a specific agreement before negotiations begin; (2) a requirement that the Administration consult before signing a trade agreement about any parallel agreements, such as labor and environmental side agreements.
- **Negotiating Instructions.** We added a section on negotiating instructions that will ensure negotiators do nothing that would lower U.S. public health and safety standards, and insist upon strict enforcement of our trade laws.
- **Specific Agriculture Objective.** The legislation responds to congressional concerns by providing a series of measures designed to achieve fairer and more open conditions of agricultural trade, including: reducing or eliminating tariffs and subsidies that hurt U.S. agricultural exports and market opportunities; addressing other unjustified barriers to such exports; and strengthening the international rules covering unfair foreign practices that distort world agricultural markets.
- **Chile.** We have specifically designated Chile as the next country with which we would negotiate a bilateral free trade agreement. Chile made a firm commitment to enter into side agreements on labor and the environment.

FAST TRACK Q&A'S

"DIRECTLY RELATED TO TRADE"

Q: What does it mean to say that any labor/environment provisions brought back on fast track must be "directly related to trade"?

- It means that labor and environmental provisions having a direct relationship to trade can be included in fast track legislation.
- It is one part of our overall commitment to labor and the environment. As the President has stated, he is committed to pursuing three objectives as we move forward: 1) to open foreign markets and create good U.S. jobs; 2) to promote labor rights; and 3) to promote responsible environmental development. Throughout this debate, our goal has been to ensure the President has the capacity to pursue all three objectives effectively.
- The Administration's bill gives the President ample latitude to accomplish his labor/environment objectives. He has many tools at his disposal:
 - Trade Agreements. As we said, the bill permits labor/environmental provisions "directly related to trade" to be brought back to Congress under fast track authority. This is only one tool he can use.
 - Global Negotiations: This Administration has done more than any other to press countries to improve labor rights and environmental protection – and we will continue to do so. The bill itself contains a negotiating objective encouraging us to make progress in these areas in the WTO and the ILO. In addition, we will continue to press in other for a, like the World Bank, IMF, other international financial institutions and the UN. We should be concerned about improving the conditions in all countries, not just in free trade partners.
 - Side Agreements: The President has extensive executive authority to reach labor/environment agreements with countries. These agreements do not require Congressional approval. In the context of future free trade agreements, we have committed to conclude companion labor/environment agreements, when appropriate. Chile has already agreed to enter such agreements.
- The important point is to secure fast track authority. If we pursue trade negotiations, we have a much better chance of engaging these countries on labor and environmental issues. Rejecting fast track will not advance our interests on labor/environment.

Q: But what does the term “directly related to trade” mean?

- It means that a discrete set of provisions directly related to trade could be included in the fast track legislation. We are still discussing the precise definition with Congress, but examples include establishing the principle that countries should not lower their environmental or health and safety standards to attract foreign investment or provisions relating to the ability of a country to use sanitary/phytosanitary measures as a disguised form of trade protection.
- Remember that this is only one tool we have to pursue our labor and environmental objectives. We believe the combination of side agreements and other measures already give us much latitude to pursue our objectives.

Q: Suppose a country lowers its child labor standards to attract foreign investment or to export cheaper products to the U.S. Could this be included in the trade agreement?

- Obviously, we are not going to negotiate a free trade agreement with a country that has a heinous labor rights or environmental record, so the issue of what can be contained in an agreement would not arise.
- As to the precise definition of “directly related to trade”, we are still working that out with Congress. We would favor a broader definition, but we also need to achieve a bipartisan consensus.

CONTENT OF SIDE AGREEMENTS

Q: What provisions will be contained in any side agreements you reach?

A: That could vary among countries. Different countries would have different conditions and different needs. As a general matter, agreements could include provisions to:

- Promote better enforcement of a country’s labor and environmental laws and regulations.
- Encourage greater transparency and public disclosure about a country’s labor and environmental standards and performance.
- Provide greater technical assistance to countries to improve their labor rights and environmental protection.

We would consult extensively with Congress about our approach in any individual case.

LINKAGE BETWEEN TRADE AGREEMENT/SIDE AGREEMENTS

Q: Do you commit to reach side agreements with all future free trade agreement partners?

- We reached side agreements with Mexico and Canada during those free trade negotiations. We have already said we will negotiate side agreements in the context of free trade talks with Chile – and Chile has agreed to do it.
- There may be instances when side agreements wouldn't be necessary (England, Sweden) but we would negotiate them when they are appropriate. In any case, we will move forward in full consultation with Congress.

SANCTIONS AND SIDE AGREEMENTS

Q: Would you make any future labor/environmental side agreements enforceable through trade sanctions?

- We will ensure that any side agreements we reach are enforceable through sanctions (whether monetary fines or other methods).

Q: Yes, but would you entertain the use of trade sanctions to enforce the agreements, as you did in NAFTA?

- At this time, the only bilateral free trade agreement we envision negotiating is with Chile. Chile has agreed to enter labor/environment side agreements enforceable by monetary fines. We think that will provide sufficient enforcement. Therefore, the question of other bilateral free trade agreements – let alone how they would be enforced – at this point is pretty theoretical.
- We would need to consult with Congress extensively before we pursue another bilateral free trade negotiations. If that situation arises, we will consult on this question as well.

Q: But at the end of the day, would you consider using trade sanctions?

- In most cases, we believe enforcement through monetary fines or similar methods could be effective. If they cannot, we would consider using trade sanctions to collect monetary fines, as we have done in past agreements. We would pursue this approach only after extensive consultation with Congress.

**INTELLECTUAL PROPERTY
VERSUS
LABOR/ENVIRONMENT**

Q: Critics charge that you incorporate intellectual property provisions in free trade agreements, but fail to give the same treatment to labor/environmental provisions? Aren't they correct that you care more about American corporations than about American workers?

- First, no Administration in history has been more aggressive in pressing to improve international labor rights or environmental protection. We have:
 - Continued to press this agenda in international institutions, like the ILO and WTO. In fact, our fast track bill contains a negotiating objective directing us to continue this effort.
 - Made a commitment to negotiate labor/environment side agreements in the context of future free trade agreements, when appropriate. We will negotiate such agreements in the context of the Chilean free trade talks. Those agreements can make a difference: there have 7 cases brought involving labor violations under the NAFTA side agreement, none brought for IPR violations under the NAFTA itself.
 - Other initiatives, like the President's 1996 Apparel Industry Partnership ("No Sweat Initiative"), a collaboration between labor, business and NGO's to encourage adoption of a code of conduct prohibiting exploitative child labor and encouraging humane working conditions.
- As to the critics' charge, there is a fundamental difference between intellectual property rights and labor/environment. Violations of intellectual property rights relate to the product itself, which is being exported to the United States. The issue of labor/environment involves more broadly the entire social and legal structure of the foreign country, which goes beyond trade concerns. That's an important difference.

9/2/97

First 1/1000
Census office

First sheet

① Trade-related

Side-agents

② Low-wage country

③ Other countries

① Trade-related

② Open line

① Portus has goals
- trade-related
- environment
- labor shd not and

② Approves ones provides him
person all of his
goals and bill have

③ pull-labor: not labor shd
④

Discrete set /
item: not really
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① Constraints
② discrete

③ Sanctions: like to negotiate
process: want to be
police

Pragmatic

④ Sanctions Teeth

cannot admit of possibility
of sanctions or fines

THE WHITE HOUSE
WASHINGTON

September 11, 1997

Dear Congressman Rangel:

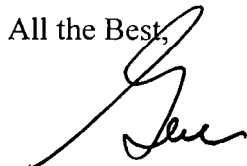
As we discussed, there is a program in the FY98 budget called Opportunity Areas for Out of School Youth which is very much a type of program which you have been pushing us to do.

It is aimed exclusively at out of school youth between the ages of 16-24. As you can see in the attached material, this program will provide youth services this year in Boston, Kentucky, Chicago, Houston, Los Angeles and New York City in the Haven/Port Morris sections of the Bronx.

We now have a significant opportunity to expand it. This program could really help with future education and empowerment zones initiatives. It is currently appropriated \$25 million in FY98 with an additional \$100 million forward funded for FY99 in the House. Even if we could only get \$25 million for this year, if we could secure \$250 million forward funded for FY99 as in the Senate Bill but without the requirement for a new authorization, this would be significant progress.

Please call me if you have any questions.

All the Best,



Gene B. Sperling
Assistant to the President
for Economic Policy

This is funds that could really help
with the goals you have laid out.
We should go hard for it. Call if
you have any questions or have your staff
call. Thanks,



OPPORTUNITY AREAS FOR OUT-OF-SCHOOL YOUTH (YOA)

- **1998 Budget Policy:** The FY 1998 request of \$250 M would provide first-year grants to 15-20 high poverty urban and rural areas, including EZ/ECs. Grants would average \$14 M for each of 5 years, serving about 50,000 youth annually. The program's goal is to boost the employment rate of out-of-school youth in each target area to 80% from its current rate of about 45%. DOL would conduct YOA under JTPA demonstration authority. YOA pilots are operating in 6 sites with \$16 M in JTPA funds. The YOA program is one of 17 in the Training and Employment Services (TES) account. TES is one of the 13 "Protected Domestic Discretionary Priorities" in the Balanced Budget Agreement.
- **Latest House Action:** The House committee-reported bill provides a FY 1999 Advance Appropriation (AA) of \$100 M, to be available for the Program Year (PY) beginning on July 1, 1999 "only if [the program is] specifically authorized by subsequent legislation." The committee report also indicates that \$25 M is available for YOA within JTPA's \$43 M demonstration appropriation.
 - **Administration Position:** The July 28th Statement of Administration Policy on H.R. 2264, the Labor/HHS/Education appropriation bill, urges the House to provide FY 1998 resources for YOA and notes the program may be carried out under existing legislation (as pilots are now). The SAP also urges the House to fully fund the request for TES programs, in order to be consistent with the BBA.
- **Latest Senate Action:** The Senate committee bill provides a FY 1999 AA of \$250 M, to be available on October 1, 1998, "if job training reform legislation authorizing this or similar at-risk youth projects is enacted by April 1, 1998." The Senate also provides \$25 M for YOA demos.
 - **Analysis:** Senate action -- without the requirement that authorizing legislation must be enacted -- would delay funding availability only for three months (the FY 1998 request finances a PY beginning on July 1, 1998). YOA funding should not be contingent on the highly uncertain outcome of training reform legislation. Similar legislation met constituent opposition and failed to emerge from a contentious conference committee in the 104th Congress. Also, in May 1997, the House passed H.R. 1385, a training reform bill that does not include an authorization for YOA. The Senate companion draft bill does authorize YOA, but introduction has been delayed.
- **FY 1997 Appropriations Action:** Both the House and Senate denied the YOA request of \$250 M in the President's 1997 Budget.

August 28, 1997

Opportunity Areas for Out-of-School Youth

Proposed in the President's FY 1998 Budget, the Youth Opportunity Areas (YOA) initiative would provide \$250 million in "seed capital" grants to Empowerment Zones, Enterprise Communities (EZ/EC), and other high poverty areas to boost the employment rate among out-of-school youth to 80 percent. Congress denied a similar request in the FY 1997 Budget.

- **Five-year grants.** The \$250 million request would provide competitive grants of about \$14 million in the first of five years to each of 15 to 20 current and future EZ/ECs. The federal investment would total \$1.3 billion over the FYs 1998-2002.
- **Matching requirement.** Grantees would be required to enlist support of schools, business, training programs, and community groups in the target area, and include a 100 percent State/local match in the first year. The matching requirement would rise over the five-year life of the grant; at the end of the grant cycle, the program would be sustained without federal funds.
- **Grant competition.** A "leading edge" competitive grant strategy would be used to distribute grant funds, as in the Administration's School-to-Work and One-Stop Career Center initiatives.
- **Administrative entity.** JTPA Private Industry Councils or local workforce development boards would be the local governing body for the YOA grants.
- **Program features.** YOA would serve about 50,000 youth annually. Its features include:
 - Immediate job placement, work-based learning opportunities, and strong links to the school system. Community involvement would occur in program planning, design, and implementation.
 - Requiring responsible behavior on the part of youth as a condition of continued participation.
 - Concentrating funds in a small "target neighborhood" within an EZ/EC of about 10,000 to 20,000 persons in an effort to saturate areas and produce positive peer pressure.
- **YOA pilots.** In Summer 1996, the Labor Department used \$9 million in existing JTPA demonstration funds to launch YOA pilots of \$3 million each in Chicago, Houston, and Los Angeles. Pending funding availability, the grants will be extended for two additional years.

News Release



U.S. Department of Labor

Office of Public Affairs
Washington, D.C.

Employment and Training Administration

CONTACT: Meg Schryver
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USDL: 97-214
FOR RELEASE: Immediate
Wednesday, June 25, 1997

**LABOR DEPARTMENT AWARDS THREE NEW GRANTS TOTALING \$6.7 MILLION
TO SERVE OUT-OF-SCHOOL YOUTH IN HIGH-POVERTY AREAS**

1998 Funding Expected to Reach \$250 Million

One rural and two urban communities will each receive over \$2 million to serve youth in high-poverty areas, Secretary of Labor Alexis M. Herman announced today. The 1997 Opportunity Areas for Out-of-School Youth Pilot Project grants have been awarded to Boston, New York and the Lake Cumberland Area in Kentucky.

"I am pleased that my Administration can provide these funds to ensure that young people are able to receive needed education and job training assistance," said President Clinton. "This support will be a positive step in preparing them not only for successful careers but also for rewarding futures."

The bi-partisan budget agreement recently reached between the President and Congressional leaders provides for \$250 million for an Out-of-School Youth initiative in 1998 and is critical to provide seed funds to high-poverty urban neighborhoods and rural areas--current and prospective Empowerment Zones and Enterprise Communities (EZ/ECs)--to help them increase employment among out-of-school young people as an alternative to welfare and crime.

"Through these grants, we have been able to provide much-needed hope for a few communities," said Herman. "Now we need to take everything we've learned and put it to good use across the nation."

-more-

These demonstration projects establish opportunity areas in specific neighborhoods (with populations of 15,000 or less) like those in empowerment zones and enterprise communities. The primary emphasis is to get out-of-school youth, aged 16-24, into private sector employment. To do this, a variety of successful job training and job development strategies are used. The goal is to increase employment in the target population from below 50 percent to 80 percent.

In addition, grantees work with public and private organizations in the broader community, such as schools, community colleges, community-based organizations, private sector employers and the judicial system, to reduce the high school dropout rate in the area and to provide mentoring support, leadership development and other services that young people need to start career paths with earnings sufficient to support a family.

Research suggests that unemployment is linked to crime, poverty, teen pregnancy, drug abuse and welfare dependency.

Recipients of the 1997 Opportunity Areas for Out-of-School Youth Grants were selected through a competitive process in which 21 needy communities applied. These communities were from urban and rural Service Delivery Areas located within designated empowerment zones and enterprise communities.

The Economic Development and Industrial Corporation in Boston will receive \$2,208,099. These funds will be used in the neighborhoods of Orchard Park in Roxbury and West Broadway and the Old Colony in South Boston. Approximately 3,400 youth will be served with a goal of placing 684 youth in jobs. Two employment centers will be created to provide comprehensive service delivery and to create neighborhood-based learning environments.

The New York City Department of Employment will receive \$2,214,179 to provide services in the Mott Haven/Port Morris sections of the Bronx. Approximately 3,074 out-of-school youth will have access to services as a result of this award. The goal is to place 580 youth in jobs. A Community Advisory Board will oversee program linkages.

The Lake Cumberland Area Development District in Russell Springs, Kentucky, will receive \$2,246,838 to assist this rural community. Approximately 1,136 young people from Clinton County and portions of Wayne County will benefit from the program. The project will seek to place 454 youth in jobs. Participants will learn customized skills and will receive certification of these skills.

Creating Opportunities for Out-of-School Youth

U.S. Department of Labor
June 1997

PROFILE

Name

Opportunity Areas for Out-of-School Youth Pilot Project Grant

Goal

Raise employment rate of out-of-school youth to 80 percent

Funding

\$8.9 million in Federal funds for 1996; \$6.7 million for 1997 grantees

Target Population

High-poverty urban and rural youth, aged 16-24

Overview

Only one of every two out-of-school youth lacking a high-school diploma is employed. In high-poverty areas, only one out of every three young dropouts is employed. Their joblessness, some researchers suggest, is inextricably linked to crime, poverty, teen pregnancy, drug abuse, and welfare dependency. Without intervention, many out-of-school youth may become permanently lost to the workforce. Investments in increasing the rate of employment for out-of-school youth can lead to benefits for individuals and society as a whole.

Increasing Employment for Out-of-School Youth

On June 25, 1997, the U.S. Department of Labor awarded three new grants -- to the Boston Mayor's Office of Jobs and Community Services, the New York City Department of Employment, and the Lake Cumberland Area Development District in Kentucky. These grants provide for comprehensive services to raise the employment rates for out-of-school youth aged 16-24 in high-poverty areas -- Empowerment Zones and Enterprise Communities Empowerment Zones and Enterprise

Communities (EZ/ECs). The Opportunity Areas for Out-of-School Youth Pilot Project grants combine federal, state, and local community resources with strong private-sector involvement to create a comprehensive approach to job training, education, and counseling--all focused toward the ultimate goal of getting jobs for youth living in poor communities.

The grants use federal money as a catalyst to spur long-term community investments in out-of-school youth. The grant's design is based on what has worked best among the nation's education and training programs to prepare high-risk, low-income youth for better jobs.

Last year, \$8.9 million was granted for three three-year pilot projects -- one each in Chicago, Houston and Los Angeles. These grants were made in memory of Donald J. Kulick, a federal official who devoted much of his career supporting employment programs for youth.

The High Cost of Inaction

Rescuing young dropouts from the nation's most impoverished areas is not cheap, easy or quick. But consider the cost of doing nothing:

- The average high-school dropout earns less, contributing \$230,000 less to the economy than a high-school graduate.
- The average high-school dropout pays \$70,000 less in taxes over a lifetime than a high-school graduate.
- One half of all African American male high-school dropouts under age 25—and three-quarters between the ages of 25 and 34—are under some form of justice system supervision, at an average yearly cost to the taxpayer of \$50,000.

Grant Recipients

Opportunity Areas for Out-of-School Youth Pilot Project grants are based on the following criteria:

1. Need in the target area.
2. The overall plan for reaching an employment level of 80 percent for out-of-school youth.
3. Commitments by area employers for a specific number of career track jobs.
4. School district efforts to reduce the dropout and truancy rates in middle and high schools.
5. Additional investments from state, local or other federal programs.
6. School-to-work efforts in the target area high school.

In addition, grantees agree to support public-private efforts to start an area CollegeBound program and to provide comprehensive sports and recreation programs in the area.

The grant recipients for 1997 are:

City of Boston This project will provide services to approximately 3,400 out-of-school youth in the Orchard Park and Old Colony neighborhoods, with a goal of placing 684 in jobs. Neighborhood teams will be responsible for outreach and case management, education and job training, dropout prevention, school-to-career and mentoring efforts and recreation and sports. An Advisory Council, composed of political, law enforcement, private sector, and community leadership, will be responsible for resource acquisition, policy development and advocacy, as well as building partnerships to ensure the long-term sustainability of the initiative. Under the project, two employment centers will be created to provide comprehensive service delivery and to create neighborhood-based learning environments.

New York City The focus of this project will be a youth opportunity employment area in the Mott Haven/Port Morris sections of the Bronx. It will serve 3,074 youth and have a job placement goal of 580. Three community organizations will form a partnership to deliver core services in education, support and skill training. A Youth Action Center will be established, overseen by a Community Advisory Board that includes project organization representatives, community members, parents and students from within the target area. The project will use a comprehensive model of outreach and recruitment, assessment and case management, training and employment activities, job placement and follow-up services. Links to other initiatives will support school-to-work efforts, dropout prevention

activities, industry-based job training projects, environmental and housing rehabilitation projects, sports and recreational efforts.

Lake Cumberland Area, Kentucky This project will target the 1,136 out-of-school youth who live in Clinton County and part of Wayne County, with a goal of moving 454 participants into employment. The grant will fund BRITE (Bringing Real Improvement Through Employment), a comprehensive program of intervention to assist out-of-school youth. BRITE has several components: an Employee Certification Program, which provides customized skills training to certify workers for local industries; a career assessment and counseling service; education and skills training through an Alternative High School; GED training; occupational skills training and an internship program that leads to a high school diploma or equivalency, along with occupational or skills training. Youth may also choose from several traditional development programs, such as YouthBuild, training toward a community college certificate or degree and expanded school-to-work activities. A comprehensive sports and recreation program also is part of the initiative.

The three 1996 recipients of Opportunity Areas for Out-of-School Youth Pilot Project Grants are getting their programs started toward their ambitious goals of cutting out-of-school youth unemployment rates from as high as 80 percent to 20 percent within three years:

The City of Chicago has focused on the Grand Boulevard community on the South Side, where more than half of the residents are below the poverty line, 80 percent of 16- to 24-year-olds are unemployed, and the high school dropout rate is almost 60 percent. The goal is to enroll 525 youth in the Quantum Project, which includes mentoring, academic and vocational classes, job skills and job placement services. The project emphasizes mentoring to help the young people make the transition to work. Chicago's YMCA will train the youth in computer skills, data processing, spread sheet preparation, customer service and math and science skills. The Pyramid Career Institute will offer customized vocational training based on skills levels and needs.

Houston Works, the coordinator of the Opportunity Areas for Out-of-School Youth Pilot Project Grant in Houston, Texas, is using a total immersion technique, combining work-site skills, education, recreational activities and job placement for two predominantly Black and Hispanic communities, where between 30 and 50 percent of students quit high school and 50 percent of the youth are unemployed. Currently about 75 youth are enrolled in a GED program and are taking academic classes at an employment and training center. Youth are also in vocational programs at Houston Community College, and some who need intensive remedial assistance are tutoring elementary school students to build their skills and self-esteem and to improve their financial situations. The goal is to recruit 500, or one-third of the area's young adult population.

The City of Los Angeles and several partners have targeted South Central's Watts community, where half of the high school dropouts aged 16 to 24 are jobless, for comprehensive services. A Career Options Alternative High School has opened, providing at-risk students with more flexibility in attaining a high school diploma. Partners include the University of California at Los Angeles, providing work skills training and remedial education, and the Center for Employment and Training offering vocational classes. The Los Angeles Conservation Corps is hiring participants for graffiti removal and landscaping, and the Los Angeles Private Industry Council is contacting area employers to encourage the hiring of youth. The goal is to recruit at least 1,000 young people over the three-year period.

The grants announced today will operate for 18 months. It is anticipated that funding will be extended for two additional years. The 1996 Opportunity Areas for Out-of-School Youth Grants totaled \$8.9 million and were awarded to communities in Chicago, Houston and Los Angeles.

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“DIRECTLY RELATED TO TRADE”

Q: What does it mean to say that any labor/environment provisions brought back on fast track must be “directly related to trade”?

General Points (To Be Included in All Answers)

- The President is committed to pursuing three objectives: 1) to open foreign markets and create good U.S. jobs; 2) to promote labor rights; and 3) to promote responsible environmental development. Throughout this debate, our goal has been to ensure the President has the capacity to pursue all three objectives effectively.
- The Administration’s bill gives the President ample latitude to accomplish his labor/environment objectives. He has many tools at his disposal:
 - Trade Agreements. The bill permits labor/environmental provisions “directly related to trade” to be brought back to Congress under fast track authority. This is only one tool he can use.
 - Side Agreements: The President has extensive executive authority to reach labor/environment agreements with countries. These agreements do not require Congressional approval. In the context of future free trade agreements, we have committed to conclude companion labor/environment agreements, when appropriate. Chile has already agreed to enter such agreements.
 - Other Agreements: This Administration has done more than any other to press countries to improve labor rights and environmental protection – and we will continue to do so, whether through the ILO, the WTO, the UN or international financial institutions. We should be concerned about improving the conditions in all countries, not just in free trade partners.
- The important point is to secure fast track authority. If we pursue trade negotiations, we have a much better chance of engaging these countries on labor and environmental issues. Rejecting fast track will not advance our interests on labor/environment.

Q: But what does the term “directly related to trade” mean?

Option 1: Narrow Definition

- Our consultations to date suggest it would allow a discrete set of provisions, with the precise definition still to be addressed. However, there is also bipartisan agreement that the President has extensive executive authority to reach strong labor and environmental side agreements – and we have committed to reach these, when appropriate.

- [If pressed: Provisions could include those establishing the principle that countries should not lower their environmental standards to attract foreign investment or those relating to the ability of a country to use sanitary/phytosanitary measures as a disguised form of trade protection.]

Option 2: Broad Definition

- The term means an agreement could address derogations from a country's labor or environmental laws with the intent of gaining a competitive advantage in trade. However, we will need to consult with Congress on the precise meaning in the days ahead.
- Regardless how these discussions proceed, we believe the combination of side agreements and other measures already give us much latitude to pursue our labor/environmental objectives effectively. Our test is whether the President can pursue these objectives, not which precise formulation emerges.

Option 3: To Be Negotiated

- We have already had some discussions with Congress about the term, and we will continue to discuss it in the days ahead.
- We think it is most productive not to conduct these negotiations in public.
- The combination of side agreements and other measures already give us much latitude to pursue our objectives. In the end, our test will be whether the President can pursue his labor/environmental objectives effectively.

Option 4: Need Not Decide Now

- At this point, the only free trade agreement we envision is with Chile – and it has agreed to enter labor/environment side agreements, which would not require fast track approval. So this issue is not implicated by any agreements we now envision.
- Should we seek to negotiate other free trade agreements, we would obviously need to consult with the Congress on all issues surrounding the negotiation, including which labor/environmental provisions might be deemed “directly related to trade”.

CONTENT OF SIDE AGREEMENTS

Q: What provisions will be contained in any side agreements you reach?

A: That could vary among countries. Different countries would have different conditions and different needs. As a general matter, agreements could include provisions to:

- Promote better enforcement of a country's labor and environmental laws and regulations.
- Encourage greater transparency and public disclosure about a country's labor and environmental standards and performance.
- Provide greater technical assistance to countries to improve their labor rights and environmental protection.

We would consult extensively with Congress about our approach in any individual case.

LINKAGE BETWEEN TRADE AGREEMENT/SIDE AGREEMENTS

Q: Do you commit to reach side agreements with all future free trade agreement partners?

A: The only bilateral free trade agreement we currently envision negotiating is with Chile. We have already said we would negotiate labor and environmental side agreements in that context – and Chile has agreed to do it.

Beyond that, our approach would depend on the free trade partner. An agreement with England merits a different approach than one with a developing country. It makes no sense to adopt a cookie cutter approach. But we would move forward only after full consultation with Congress.

SANCTIONS AND SIDE AGREEMENTS

Q: Would you make any future labor/environmental side agreements enforceable through trade sanctions?

General Points (To Be Used in Any Answer)

- At this time, the only bilateral free trade agreement we envision negotiating is with Chile. Chile has agreed to enter labor/environment side agreements enforceable by monetary fines. We think that will provide sufficient enforcement.
- Therefore, the question of other bilateral free trade agreements – let alone how they would be enforced – at this point is pretty theoretical.

Q: But if there were future side agreements, would you consider using trade sanctions?

Option 1: No Sanctions

- We believe these side agreements can be enforced through monetary fines or other appropriate methods.

Options 2: Sanctions Possibly

- Our preference would be to enforce the side agreements through monetary fines or similar methods, if they can be effective. If they cannot, we would consider using trade sanctions to collect monetary fines, as we have done in past agreements. We would pursue this approach only after extensive consultation with Congress.

Option 3: Yes Sanctions

- If necessary to ensure the side agreements are enforceable, we would be prepared to negotiate agreements ultimately enforceable through trade sanctions.

Option 4: No Decision Needed Now

- Question is highly theoretical. Chile is the only bilateral free trade negotiation envisioned, and we do not feel trade sanctions will be necessary to enforce the side agreements.
- We would need to consult with Congress extensively before we pursue another bilateral free trade negotiation. If that situation arises, we will consult on this question as well.

U.S. Department of Labor

Deputy Under Secretary for
International Affairs
Washington, D.C. 20210**FAX COVER SHEET**Date: 9-14-97To: Gene SperlingFax Number: 456-2878

Addressee's Phone Number: _____

From: Andrew Samet

Fax Number: (202) 219-5980

Sender's Phone Number: 219-6043Number of Pages including this cover sheet: 3

If there is any problems receiving this fax please call (202) 219-6043

Remarks : _____

U.S. Department of Labor

Deputy Under Secretary for
International Affairs
Washington, D.C. 20210



September 12, 1997

MEMORANDUM FOR GENE SPERLING

FROM:

Andrew Samet

SUBJECT:

Proposals for Administrative Improvements to
Adjustment Assistance Programs

The Deputy Secretary has asked me to send you the attached paper with proposals for administrative improvements to adjustment assistance programs to help trade-impacted workers.

cc K. Higgins

**PROPOSED ADMINISTRATIVE IMPROVEMENTS
TO ADJUSTMENT ASSISTANCE SERVICE PROGRAMS
TO HELP TRADE-IMPACTED WORKERS**

As Referenced by Secretary of Labor Herman to the Hispanic Caucus

Outreach, Early Intervention and Rapid Response

Develop a comprehensive strategy to improve and enhance the outreach, and early intervention services provided to workers prior to assessment of trade impact. Make information about eligibility for trade programs a part of this rapid response strategy. This will be done through clear notifications to states of expectations, as well as improved guidelines and technical assistance on identification of particular groups, such as secondary workers who can be served under Job Training Partnership Act dislocated worker programs. Public information campaigns will also be utilized.

Worker Transition Committees

Provide administrative guidelines to the dislocated worker system that encourage collaboration between trade and Title III of the Job Training Partnership Act regarding the establishment of worker transition committees and in planning the delivery of comprehensive services to trade-related dislocated workers who are entitled to benefits under Trade Adjustment Assistance (TAA) or NAFTA-TAA. Existing agreements with the States to serve workers under NAFTA-TAA will be revised to incorporate provisions that States assist in and encourage the establishment of worker transition committees among their responsibilities under NAFTA-TAA. The guidance will also encourage collaboration with local elected officials and representatives from economic development and community based organizations; education, trade and job training to establish strategies to avert worker dislocations or to create new job opportunities where none or few currently exist.

Certification Time Line

Shorten the determination period on a Trade Adjustment Assistance petition from 60 days to 40 days to accelerate the delivery of services to eligible workers.

Outcome Data

Collect outcome based performance data for workers who received adjustment assistance services in order to be able to assess the effectiveness of the programs and fine tune them.

SECRET

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TO THE CONGRESS OF THE UNITED STATES:

I am pleased to transmit a legislative proposal entitled the "Export Expansion and Reciprocal Trade Agreements Act of 1997." Also transmitted is a section-by-section analysis.

This proposal would renew over 60 years of cooperation between the Congress and the Executive Branch in the negotiation and implementation of market-opening trade agreements for the benefit of American workers and companies.

The sustained, robust performance of our economy over the past five years is powerful proof that Congressional-Executive cooperation works. We have made great strides together. We have invested in education and in health care for the American people. We have achieved the almost unimaginable goal of bringing the Federal budget under control. At the same time, we have put in place two major trade agreements that have lowered barriers to American products and services around the world.

Our companies, farms, and working people have responded. Our economy has produced more jobs, more growth, and greater economic stability than at any time in decades. It has also generated more exports than ever before. Indeed, America's remarkable economic performance over the past five years has been fueled in significant part by the strength of our dynamic export

SECRET

sector. Fully 96 percent of the world's consumers live outside the United States. Many of our greatest sales opportunities today lie outside our borders. The future promises still greater opportunities.

Many foreign markets, especially in the developing world, are growing at tremendous rates. Latin American and Asian economies, for example, are expected to expand at three times the rate of the U.S. economy over the coming years. Consumers and industries in these countries prize American goods, farm products, and services, and the many expressions of American ingenuity and culture embodied in our computer programs, recordings, and computers. These markets hold enormous possibilities for us. While America is the world's greatest exporting nation, we need to do more if we want to continue to expand our own economy and produce good, high-wage jobs for our children.

We have made real progress in breaking down barriers to American products around the world, particularly in developed countries like those in Europe. But today many nations with the highest growth rates are in the developing world, and they almost invariably impose far higher trade barriers than we do. We need to level the trade playing field with those countries. They are

the nations whose markets hold the greatest potential for American workers and firms.

Today, the United States is the world's strongest competitor. The stunning performance of the U.S. economy over the past several years is testimony to the fact that American firms and workers are more creative, more efficient, and more innovative than any on earth. We cannot afford to squander our advantages by retreating to the sidelines and watching other countries conclude preferential trade deals that shut out our superior goods and services. Over twenty such agreements have been concluded in Latin America and Asia since 1992. The United States must continue to shape and direct world trade to our advantage, and to foster democracy and stability around the world.

I have pledged my Administration to this task, but I cannot fully succeed without the Congress at my side. We must work in partnership, together with the American people, in securing our country's future. The United States must be united when we sit down at the negotiating table. Our trading partners will only negotiate with one America -- not first with an American President and next with an American Congress.

The proposal I am sending you today ensures that the Congress will be a full partner in setting negotiating objectives, establishing trade priorities, and in gaining the greatest possible benefits through our trade agreements. The proposal goes well beyond any previous fast-track legislation in ensuring that the Congress is fully apprised and consulted throughout the negotiating process. I am convinced that this collaboration will strengthen both America's effectiveness and leverage at the bargaining table.

Widening the scope of consultations will also help ensure that we will take all of America's vital interests into account. As we move forward with our trade agenda, we must continue to honor and reinforce the other values that make America an example for the world. I count chief among these values America's long-standing concern for worker rights and for environmental protection. The proposal I am transmitting to you recognizes the importance of those concerns. It makes clear that the trade agreements we conclude must complement and reinforce those values.

Ever since President Roosevelt proposed and the Congress enacted America's first reciprocal trade act in the heart of the Great Depression, the Congress and the President have been

united, on a bipartisan basis, in supporting a free and open trading system. Our predecessors learned from direct experience the path to America's prosperity. We owe much of our own prosperity to their wisdom. I urge the Congress to renew our long-standing partnership by approving the proposal I have transmitted today.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

The Export Expansion and Reciprocal Trade Agreements Act of 1997

Today, President Clinton transmitted to the Congress the "Export Expansion and Reciprocal Trade Agreements Act of 1997." This proposal is designed to renew "fast track" procedures for trade agreements requiring Congressional approval and implementation as well as to renew the President's authority to proclaim tariff reductions pursuant to reciprocal commitments by U.S. trading partners.

The proposal recreates a partnership between the President and the Congress, first put in place under the Ford Administration, that helps secure advantageous trade agreements for the United States. The proposal ensures that the Congress is fully integrated into the formulation of U.S. goals, strategies, and decision-making for each trade negotiation subject to fast track procedures. The proposal thus serves to unite the Congress and the President in trade negotiations. It tells U.S. trading partners that they can trust the United States to consider, but not reopen, trade deals after they are struck.

The proposal also permits the President to enter into certain agreements reducing tariff barriers and implement them without returning to Congress for further authority. This aspect of the proposal has antecedents dating back to the mid-1930s.

The proposal calls for the President's renewed tariff proclamation authority and for the new fast track procedures to remain in effect until October 1, 2001. The President may request an extension of the proclamation authority and "fast track" procedures through September 30, 2005. The extension will take effect unless disapproved by either House of the Congress.

Key provisions of the proposal are as follows:

- The President may negotiate and bring back to the Congress for fast track Congressional approval and implementation trade agreements addressing non-tariff barriers or both tariff and non-tariff barriers.
 - Thus, fast track could be used to carry out agreements concluded under the negotiating agenda established by the World Trade Organization -- for example, to further reduce tariff and non-tariff barriers to agricultural trade -- or to conclude bilateral or regional free-trade arrangements.
 - The President could use the renewed "proclamation authority" to carry out an agreement like the recent "Information Technology Agreement," which is reducing tariffs that foreign governments impose on billions of dollars of U.S. computer, electronic, and semiconductor products sold around the world.
- In order for an agreement to qualify for fast-track treatment, the President must comply with numerous notice and consultation provisions designed to ensure that the Congress is a full partner with the President in critical trade negotiations. These provisions enable the Congress to set priorities, provide advice, and exercise oversight at all stages of the negotiations, and after the agreement is concluded. That means Congressional views will be fully reflected both in the final agreement and in the manner in which the agreement is to be carried out. Moreover, if the Congress concludes that the President has not adequately consulted the Congress regarding a proposed agreement, the proposal creates an expedited procedure for the Congress to refuse to apply fast-track procedures.
- The proposal adds to existing law in ensuring that the public is fully informed of the negotiations and that the President receives advice from both the private sector and the public concerning the negotiations.
- Among the requirements that the President must carry out in connection with fast-track negotiations are the following:
 - The President must provide written notice to the Congress before initiating negotiations and must spell out in writing his principal objectives for the

negotiations.

- The President must consult with the Congress as negotiations progress and again before an agreement is concluded. The proposal calls on U.S. negotiators to make every effort to keep official Congressional advisors fully informed regarding the negotiations.
- Before signing an agreement, the President must inform the Congress of any other agreements he intends to conclude in conjunction with the trade agreement. He must also state his plans for implementing the agreement and whether the agreement will require additional legislation beyond that subject to fast-track procedures.
- Any fast-track agreement that the President concludes must make progress towards the principal trade negotiating objectives set out in the proposal. These include negotiating objectives for U.S. goods, services, intellectual property, agricultural products, foreign investment, and for worker rights and environmental protection.
- The proposal adds to the existing requirement that the President must seek the views of Congressionally-authorized private sector advisory committees during the course of the negotiations. These groups include advisory committees on goods, services, agriculture, intellectual property, labor, and the environment, among others. The proposal ensures that these committees also examine and provide their views to the Congress and the President on any proposed agreement -- before it is signed.
- Under existing law the President must solicit comments from the general public by publishing a notice, and holding public hearings, regarding his intention to initiate fast-track negotiations. Under the proposal, the President must in addition issue a public notice several months before he concludes a trade agreement.
- The proposal requires the President to describe at the time he submits implementing legislation to the Congress how he intends to use existing regulatory and

administrative authority to carry out the agreement. He must also explain in writing how the agreement meets Congressionally-mandated negotiating objectives and serves U.S. economic interests.

- Under well-established practice, the President collaborates with the Congress in drafting the implementing legislation and the legislation is subject to informal public hearings and "mark-ups" by all Congressional committees of jurisdiction before its introduction.
- Agreements for which the President has observed each of the proposal's notice, consultation, and other procedures are subject to fast-track consideration in the Congress. Fast track rules call for the Congress to vote on qualifying trade agreements and implementing legislation without amendment within 60 "legislative days" -- a period of several months.
- Under the President's proposal, new statutory provisions or other changes in U.S. law required to carry out a trade agreement may be included in fast-track implementing legislation only if the changes are both: (1) necessary or appropriate to implement the agreement; and (2) related to trade. This requirement prevents fast-track bills from being used to enact extraneous provisions.
- Under the renewed "proclamation authority" the President would be authorized to reduce by 50 percent tariffs that currently exceed 5 percent *ad valorem*. The President could eliminate duties of 5 percent or less. The proposal also allows the President to lower tariffs in connection with new multilateral sectoral tariff agreements.

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Section-by-Section Analysis

Section 1. Short Title.

Section 2. Negotiating Objectives.

Section 2 of the proposal sets out the "overall" and "principal" objectives that will guide the President in negotiating future trade agreements covered by the proposal. This format parallels that of section 1101 of the Omnibus Trade and Competitiveness Act of 1988, which in turn was based on a similar structure in the Trade Act of 1974. In order for a trade agreement to qualify for fast-track treatment, it must make progress toward the principal objectives set out in section 2(b). These objectives address, among other subjects, agricultural products, intellectual property, trade in services, U.S. foreign investment, and worker rights and environmental protection.

Section 3. Proclamation Authority and Fast-Track Implementing Proposals.

Section 3(a) provides the President with limited authority to reduce U.S. tariff rates -- without seeking further approval from the Congress -- in return for reciprocal concessions from U.S. trading partners. Much of the language on this subject is derived from earlier versions of tariff proclamation authority, with antecedents dating back to the mid-1930s. The proposal adds a provision that will allow the President to implement new multilateral sectoral tariff agreements, subject to a Congressional notice and layover requirement.

Section 3(b) provides that the President may negotiate and bring back to the Congress for approval and implementation under the fast track procedures set out in section 151 of the Trade Act of 1974 certain trade agreements addressing non-tariff barriers or both non-tariff and tariff barriers. Those procedures call for the Congress to vote on agreements and their implementing legislation without amendment and within a fixed period. Changes in U.S. law necessary to carry out a trade agreement may be included in fast track implementing legislation only if the changes are both necessary or appropriate to implement the agreement and trade-related. For an implementing bill to be subject to fast-track Congressional review, the President must

adhere to numerous notice and consultation requirements imposed by the proposal.

Under the proposal, the President's tariff proclamation authority, as well as fast track procedures for implementing legislation, will be in effect until October 1, 2001. On request from the President, proclamation authority and fast track procedures will be extended until October 1, 2005, subject to disapproval by either House of Congress.

Sections 4 and 5. Notice, Consultations, and Implementation.

Sections 4 and 5 contain a number of provisions requiring the President to notify and consult with the Congress before and during trade negotiations. These provisions ensure that the Congress is fully integrated into the formulation of U.S. goals, strategies, and decision-making for each trade negotiation. Section 5 establishes an expedited procedure for Congress to withdraw fast track if it finds that the Administration is not adequately consulting the Congress on trade negotiations.

A number of the notice and consultation requirements included in sections 4 and 5 are drawn from equivalent provisions in the Omnibus Trade and Competitiveness Act of 1988. For example, the President must provide advance notice to the Congress before initiating a negotiation and must consult with the Congress before an agreement is concluded. The President must also describe in detail at the time he submits implementing legislation to the Congress how he intends to use existing regulatory and administrative authority to carry out the agreement. The proposal also provides for Congress and the President to receive advice before the President signs an agreement from Congressionally-chartered private sector advisory committees. These include advisory committees on the range of goods, agricultural commodities, services, intellectual property, labor, the environment and other trade matters. Under existing law, the President consults with these committees over the course of the negotiations as well.

The proposal also adds new consultation requirements to enhance further Congressional oversight of the negotiation process. For example, the President must spell out for the Congress before negotiations begin his principal negotiating objectives and is

required to consult with the Congress over the course of the negotiations. In addition, the President must inform the Congress of any other agreements he intends to conclude in conjunction with the trade agreement and must state whether the agreement will require implementing legislation in addition to that subject to fast-track procedures.

Section 6. On-going Negotiations.

The proposal waives the requirement for the President to provide advance notification to the Congress of certain negotiations initiated prior to enactment of the proposal. These include negotiations commenced in 1995 with the Government of Chile on a comprehensive trade agreement and certain negotiations currently in progress under the auspices of the World Trade Organization.

Section 7. Conforming Amendments.

The proposal makes changes to other statutes as necessary to take account of the new fast track provisions.