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UNITED STATES DEPARTMENT OF
COMMERCE NEWS
WASHINGTON, D.C. 20230

OFFICE OF THE SECRETARY

FOR IMMEDIATE RELEASE:
October 21, 1997

CONTACT: Maria T. Cardona
202-482-4883

STATEMENT BY SECRETARY OF COMMERCE WILLIAM M. DALEY ON U.S. INTERNATIONAL TRADE IN GOODS AND SERVICES

Washington -- A strong U.S. economy is again reflected in our trade numbers for August. The trade deficit widened slightly in August to $10.4 billion, from a revised $10.0 billion in July. Our exports of goods and services have grown at a remarkable 10 percent rate so far this year despite sluggish growth in many trading partners and a strong U.S. dollar. Growth in the U.S. economy has spurred U.S. 9 percent import growth.

Despite a $2.4 billion larger deficit in overall trade through August, both the manufacturing and service sectors have stronger trade balances in 1997 than they did in 1996. U.S. exports of manufactured goods are up 12.7 percent, demonstrating the strong competitiveness of American businesses in world markets.

Our exports to Mexico have increased 25 percent so far this year. The trend is upward in the rest of Latin America, as well, with gains this year of 19 percent.

Our trade balances with both our NAFTA partners have improved substantially this year. The deficit is down 24 percent with Canada and 15 percent with Mexico. Since our exports to Mexico now exceed our exports to Japan, our NAFTA partners have become our two largest export markets.

China and Japan remain areas of serious concern. The trade deficit with China rose again in August, as normally happens this time of year in advance of holiday retail sales. Our deficit with Japan, while somewhat lower than in July, is 17 percent above a year ago for the first eight months. U.S. exports to Japan are lower than in 1996. Although this is not surprising given the recent downturn in that economy, we must continue to press for further deregulation, additional market opening, and full implementation of our trade agreements with Japan.

In China, there is no question that the mounting trade deficit remains a major concern for this Administration. During my recent visit, I raised these concerns at the highest levels of the Chinese government. The barriers to trade and investment in that country are complex, and I stressed to my counterparts the importance of WTO accession and of taking practical steps -- as we agreed to in the Joint Commission on Commerce and Trade -- to address these problems.

The point remains that our economy remains strong and our workers are more productive than ever. The strength of our economy makes it attractive and gives us leverage in trade negotiations with foreign countries. Likewise, our growth and prosperity would benefit from greater access to foreign markets for our products and services. Today's numbers continue to underline the need for the President to have fast track authority, which is a matter of global leadership.

THE WHITE HOUSE

WASHINGTON

To: Bob Kyle

Rm. 227

From: Vicki Radd

URGENT

Total Pages: 23

LRM ID: AER221

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, October 21, 1997

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

Ron Peterson

FROM: Ronald K. Peterson (for) Assistant Director for Legislative Reference

OMB CONTACT: Annette E. Rooney
PHONE: (202)395-7300 FAX: (202)395-5691

SUBJECT: **US Trade Representative Qs and As on S1269 Reciprocal Trade Agreements Act of 1997** – Followup to Sept. 30 hearing

DEADLINE: **1:00 P.M. Tuesday, October 21, 1997**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

* **COMMENTS:** This deadline is firm. If you do not respond by the deadline, we will presume that your agency/office has no comment.

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RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Annette E. Rooney Phone: 395-7300 Fax: 395-5691
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The following is the reponse of our agency to your request for views on the above-captioned subject:

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USTR Responses to Questions from Senator McCain
Senate Commerce Committee
Hearing on Fast Track
held 9/30/97

Question #1

My colleague, Senator Hollings, frequently argues that most trade agreements have been enacted without fast track. How do you justify, then, that fast track is necessary for future agreements?

Answer:

Fast track is needed only for trade agreements that call for changes in U.S. law. The vast majority of day-to-day trade agreements can be implemented under previously delegated authority from the Congress, or under the President's constitutional powers, without the need for further action by the Congress.

Fast track is vital for some of the most important agreements that the President negotiates -- those where the President must agree to make changes in U.S. tariffs or other domestic legislation in return for concessions from our trading partners. This is the type of agreement that fast track was designed to address.

Congress has repeatedly enacted fast track procedures in order to ensure that the United States can negotiate major trade agreements from a position of strength and unity. It tells our trading partners that the Congress and the President speak with one voice at the negotiating table. Fast track also addresses the concern of our trading partners that Congress will pick and choose those provisions of the agreement it wants to accept, delay implementation, or condition U.S. participation in the agreement in a manner incompatible with agreement the President strikes with them.

This concern is not hypothetical. In 1967, Congress used the legislative process to reject key components of two trade agreements concluded by President Johnson in the Kennedy Round -- including an antidumping agreement that the United States itself had proposed.

Both Congress and the President understood that this situation should not be repeated. Congress enacted fast track in 1974, and has renewed it repeatedly thereafter, to ensure that there would be a partnership between the Congress and the President in trade matters -- both in negotiating trade agreements and once they are concluded. Fast track makes certain -- through extensive consultations and give-and-take throughout the negotiations -- that the President works together with the Congress in fashioning trade agreements that serve the interests of the United

/

States.

Question # 2:

What is the impact of not passing fast track this year?
Answer:

There are serious and immediate consequences if we do not renew fast track. Our competitors around the world are seizing trade opportunities as they arise, cementing commercial relationships and forming new trade alliances that leave our workers and firms at a disadvantage. In Latin America and Asia, for example, the two fastest growing regions of the world with millions of new consumers, governments are pursuing strategic trade policies and concluding preferential trade arrangements with each other and countries outside their regions. Our competitors are not waiting for us to pass a bill. In Latin America and Asia, over 20 such agreements have been negotiated since 1992. The United States is party to only one.

Argentina, Brazil, Paraguay, and Uruguay, for example, have formed a common market, MERCOSUR, which has a gross domestic product of approximately $1 trillion and a population of over 200 million and ambitions to expand to all of South America. The combined economy of the MERCOSUR countries is the largest in Latin America. MERCOSUR has recently put in place preferential trade agreements in place with Chile and Bolivia, and is aiming to conclude agreements with Colombia and Venezuela, as well as countries in the Caribbean Basin. There are recent reports that Canada is also in discussions with MERCOSUR.

Chile, with one of South America's leading economies, has signed trade agreements with Bolivia, Colombia, Ecuador, Mexico, Venezuela, Canada and MERCOSUR. Indeed, Chile has preferential trading relationships with every major trading country in our hemisphere but one -- the United States. Mexico has concluded market opening agreements with Colombia, Venezuela, Ecuador, Costa Rica, Guatemala and Chile and is negotiating an agreement with MERCOSUR and others in Central America.

Our failure to enact fast track disadvantages us in comparison with our industrialized competitors as well. Canada's new trade agreement with Chile, gives Canadian exporters substantial advantages over our companies. The European Union, already the world's largest trading bloc, has secured for its exporters significant advantages in the transition economies of Central and Eastern Europe. The EU is also determined to expand its trade relationships in Latin America and has agreed to pursue preferential tariff agreements with MERCOSUR, Chile and Mexico. Japan has undertaken high level efforts throughout Asia and Latin America to enhance commercial ties through investment and financial initiatives. China has designated five countries in Latin America - Brazil, Argentina, Chile, Mexico and Venezuela - as strategic priorities in which it is seeking to increase its commercial and political ties. Latin America was last year China's second fastest growing export market.

Access to the world's fastest-growing markets -- particularly those in Asia and Latin America, which are projected to grow at rates as much as three times the U.S. growth rate -- is especially important to America's economic future . More than 95 percent of the world's consumers reside outside the United States. Of the more than 30 million people who join the world's middle class annually, an estimated three-quarters are in emerging markets and other low and middle-income countries. These are the markets of the future. Our competitors understand that and are moving rapidly to position themselves to ensure preferential access to these fast growing markets.
The consequences of agreements being reached without us are not just theoretical; they are quite real. Many U.S. firms already are encountering significant competitive disadvantages created by preferential agreements that exclude the United States. That means our companies and workers are losing export opportunities. Examples are already evident:

- the American Chamber of Commerce in Chile estimates the United States will lose this year $500 million in exports sales in Chile alone due in large measure to Chile's recent preferential trade agreements with others;

- U.S. apple producers are at in risk in the key Latin American markets because their Chilean competitors face no duties, or very low duties, for their apple exports to those markets due to preferential tariff deals that Chile has negotiated with these countries. By contrast, U.S. producers often confront significant tariff walls when they sell into Latin American markets.

- U.S. corn producers are facing competition in Chile from Argentinean producers who enjoy a 3.3% tariff preference -- which will grow to 11% over time. U.S. corn producers could lose half their market share in Venezuela to Argentina because of Venezuela's relationship with MERCOSUR.

The United States can only redress these growing trade inequalities by concluding similar bilateral and regional agreements, as well as through negotiating new multilateral agreements that level the global trade playing field. The President needs fast track for this task.

As the President has said, fast track "is about whether other countries will continue to look to the United States to lead to a future of peace and freedom and prosperity." American leadership has helped bring about an unprecedented movement towards democracy, stability, and economic security in our hemisphere and around the world. Our sustained efforts to bring about fair and open trade worldwide have been a major reason for our success.

The President is committed to pursuing not only more open markets, but more open societies that encourage respect for core labor standards and for the environment. Failing to renew fast track will not promote any of these objectives. Fast track is vital if we want to continue our success and sustain American leadership over the years to come.

Question #3

Can you tell us the status of the Free Trade of the Americas Agreement? Is this agreement at threat if Fast Track is not enacted?

Answer:

At the third Free Trade Area of the Americas (FTAA) Ministerial held in Belo Horizonte, Brazil, in May 1997, the 34 Trade ministers responsible for trade agreed that sufficient progress had been made since the Miami Summit of the Americas that they would recommend that the Western Hemisphere presidents and prime ministers initiate the FTAA negotiations at the Santiago Summit of the Americas next April. The ministers established a Preparatory Committee (PrepCom), constituted by the vice ministers, to make recommendations on how the negotiations will proceed, i.e. on the objectives, approaches, structure and venue of the negotiations, in preparation for decisions on these issues at the next ministerial meeting in San Jose, Costa Rica, in March 1998.

The PrepCom has held one meeting, in July 1997, at which the vice ministers discussed possible outlines for the San Jose Declaration, which would establish a negotiating plan for the FTAA. The 12 working groups are in the process of preparing reports on possible issues and negotiating approaches in their respective disciplines, which are to be provided as input to the Vice Ministers before the second PrepCom meeting at the end of October.

Without fast track, we will have less credibility with and influence on the other 33 governments in seeking to achieve our FTAA goals for the San Jose Ministerial and Santiago Summit. We are seeking to reach consensus on a commitment at the Santiago Summit to **simultaneously initiate** the FTAA negotiations **on all issues** identified by Hemispheric leaders in Miami, and any other issues agreed upon by the ministers. Both publicly, and during the 34-country FTAA meetings, MERCOSUR has questioned whether we will be able to initiate FTAA negotiations next year without fast track. Other countries have questioned how the U.S. can push to have the FTAA negotiations initiated and to achieve a comprehensive state-of-the-art trade agreement without fast track. At a bare minimum, the absence of fast track has tended to diminish U.S. standing in meetings and delayed important work aimed at laying the foundation for a strong start to the negotiations. Fast track gives the United States the credibility to negotiate tough trade deals because our partners know any agreement will not be reopened provision-by-provision by the Congress. We also are seeking to reach consensus on agreement to implement a very significant package of interim agreements by the year 2000, to meet the mandate established in Miami to achieve concrete progress by the end of the century. Our definition of "concrete progress" also would include full implementation of all FTAA countries' WTO and Uruguay Round commitments, and implementation of concrete business facilitation measures. Having fast track would be a strong signal to the hemisphere of our seriousness in meeting our deadline of concluding the FTAA negotiations by 2005, at the latest.

Question #4

Has any foreign leader stated directly that they will not negotiate trade agreements without fast track?

Answer:

President Frei of Chile said in October 1995 "we are not going to negotiate as long as we do not have fast track". Chile is the one country to which the United States has committed to negotiate a comprehensive free trade agreement. President Frei's public remarks on fast track came after the negotiations to conclude such an agreement with Chile were halted in October 1995 because Chile was not willing to make the commitments necessary to conclude an agreement in the absence of U.S. fast track authority. As indicated in the response to Question 3 above, other leaders in the region have questioned how we can initiate formal FTAA negotiations without fast track.

Question #5

What is the current status of talks with Chile concerning NAFTA? Do you find that the Chileans are becoming tougher negotiating partners because they already have, or are in the process of negotiating, trade agreements with MERCOSUR, Canada, and Mexico?

Answer:

Please see response to Question 4. The Administration has not engaged in negotiations with Chile in regards a comprehensive free trade agreement since October 1995 when negotiations broke down. However, a lot has happened since then.

For example, Chile's 1996 agreement with MERCOSUR has led to a greater degree of coordination between Chile and MERCOSUR in regard to trade negotiation with other governments. Similarly, the Canada - Chile free-trade agreement was crafted as both an interim step towards possible NAFTA accession and as a bilateral arrangement with characteristics unique to the Canada-Chile relationship. The Chile-Mexico negotiations are ongoing. The objective of those negotiations, as we understand it, is the expansion of the scope of their 1992 bilateral tariff elimination agreement to include further disciplines modeled on those contained in the NAFTA. Similarly, the EU and Chile have agreed to pursue a reciprocal trade agreement in the context of increased cooperation on a variety of fronts. The agreed target date for an accord is 1999.

Given what has occurred since 1995, it is likely that Chile's position on some issues may be revised when it returns to the bargaining table with the U.S. However, we will only know the Chilean position on relevant issues once we resume the negotiations.

Question #6

Question #7

The Administration has argued that their fast track proposal would vastly expand the role of Congress in the negotiating of new trade agreements. What will this include? Specifically, how will a committee such as this one be involved in future trade agreements?

Answer:

The two fast-track bills currently pending in Congress contain what would be the most comprehensive notice and consultation requirements ever included in fast-track. They create a strong partnership between the Congress and the President in choosing negotiating partners, setting priorities, and receiving and implementing completed agreements.

Both bills specify that, at least 90 days before initiating negotiations on an agreement subject to fast-track procedures, the President must provide Congress with written notice of his intention to enter into such negotiations. The notice must state the date on which negotiations are to begin, the specific U.S. objectives for the negotiations, and whether the President intends to seek a new agreement or changes to an existing agreement.

Importantly, the bills add the requirement that, before initiating negotiation, the

President would be obligated to consult with any congressional committees that the President believes appropriate or (in the Senate bill) that request such consultation in writing. The Administration supports this additional Senate language. As a practical matter, this would mean that wherever the subject matter of an agreement falls within the purview of the Commerce Committee, the President will consult with the Committee prior to and throughout the course of negotiations. In these consultations, the President would not only share with the Committee his strategy and objectives for negotiations, but he also would keep the Committee informed of developments as negotiations progress.

Under the Senate bill, the President would have to inform Congress during the course of negotiations of any contemplated side-agreements he intends to enter into with the country or countries in question, and he must notify Congress 90 days in advance of entering into an agreement whether implementing legislation not subject to fast-track procedures may be necessary. Both bills also call for closer consultations between the President and congressional advisers to negotiating delegations.

Before entering into a trade agreement, the President must again consult with congressional committees having jurisdiction over matters that would be affected by it. And, at least 90 days in advance of entering into an agreement, the President must notify the House and the Senate of his intention to do so. Both bills also adopt the previous requirements that the President obtain advice from the International Trade Commission, the general public and congressionally-mandated advisory committees.

In addition, both bills provide that no agreement subject to fast-track procedures may enter into force unless, within 60 calendar days after signing an agreement, the President submits to Congress a description of changes to existing laws needed to bring the United States into compliance with the agreement. And, both bills enhance the role played by the advisory committees by requiring that the appropriate committees provide Congress and the President with their views on a proposed agreement at least 60 days before the President enters into it.

Thus, the House and Senate bills make plain that, from the time the President determines that he will enter into negotiations to the culmination of the agreement, Congress -- specifically including the Commerce Committee for negotiations and agreements subject to the Committee's jurisdiction -- will be a full partner in trade negotiations.

Question #8

The Administration's draft would effectively waive the requirement for congressional consultations in ongoing Information Technology Agreement. What level of consultations can this committee expect as part of the second phase of the

Information Technology Agreement?

Answer:

Section 6(a) of the Senate bill and section 106(a) of the House bill provide that the requirement for the President to give pre-negotiation notice to, and engage in pre-negotiation consultations with, the Congress, does not apply with respect to certain negotiations that are currently underway, or that will have commenced prior to time fast-track procedures are renewed. The provision is necessary because it will be impossible for the President to meet advance notice and consultation requirements for negotiations that began before a final bill is enacted.

The purpose of the grandfather clause is only to exempt agreements designated in sections 6(a) and 106(a) of the respective bills from those notice or consultation requirements that are triggered prior to the initiation of negotiations. All other notice and consultation provisions would apply. Thus, such agreements will remain fully subject to the requirements that the President consult with relevant congressional committees during negotiations and prior to entering into an agreement; work closely with official congressional advisers in formulating strategy and developing bargaining terms; receive advice from the general public, private sector advisory committees, including the labor and environmental advisory committees, and the International Trade Commission; provide Congress with at least 90 days notice before entering into an agreement; explain to Congress how the agreement is to be implemented; and supply Congress with extensive supporting materials about the agreement.

The bills make clear that the only negotiations that will qualify for the limited exemption are those: 1) regarding information technology products under the auspices of the World Trade Organization; 2) initiated under the World Trade Organization; and 3) Chile. The WTO negotiations currently underway are those regarding the rules of origin and financial services.

Question #9

Senator Gramm asked during the Finance Committee hearings whether the President could, and intended to, override State government right to work laws. Ambassador Barshefsky indicated that she would look into that issue. Do you have an answer today?

Answer:

The Administration does not intend to use fast track implementing legislation to make changes in State right to work laws.

Question #10

In the "Principal Trade Objectives" section of your proposed legislation, you list promoting

> **"respect for internationally recognized worker rights" through the WTO, and [the] establishment [within] of the International Labor Organization as "a mechanism for the systemic examination of, reporting on, and accountability for the extent to which member governments promote and enforce core labor standards."**

Does the Administration have plans to use the WTO and ILO to open up negotiations on labor issues as part of its major trade agenda?

Answer:

The Administration's proposed legislation sends a clear message about our enduring commitment to promote respect for internationally recognized worker rights. Within an agreement, we can address those aspects of foreign government policies and practices regarding labor, that are *directly related to trade* and decrease market opportunities for United States exports or distort United States trade. The question focuses on the activity envisioned in the WTO and the ILO.

With respect to the WTO, the Administration remains committed to pursuing within the WTO the establishment of a working party to examine the relationship of internationally recognized worker rights to GATT and WTO Articles, objectives and related instruments. Specifically, we are to explore the linkage between international trade and internationally recognized worker rights, taking into account differences in the level of development among countries; to examine the effects on international trade of the systematic denial of such rights; to consider ways to address such effects, and to develop methods to coordinate the work program of the working party with the International Labor Organization.

Successive Administrations, working closely with the Congress and the private sector have pressed to begin a dialogue in the GATT, and now WTO, on this important issue. Despite continued U.S. efforts, there as yet has not been the needed consensus to pursue formally this issue on the WTO's agenda. Opposition to consideration of this issue has focused on the concern of many countries that efforts to link trade and labor standards is being pursued for protectionist purposes. The United States continues to reject such claims.

U.S. efforts to pursue the relationship between trade and labor formally within the GATT have a long history. The Omnibus Trade and Competitiveness Act of 1988 established negotiating objectives for the United States in this area. Lack of a consensus within the GATT to pursue this issue has been the major obstacle to beginning a formal dialogue within the WTO as part of the Uruguay Round result. At the Marrakesh Ministerial Meeting in April 1994, labor standards was again identified as one of the possible issues for the WTO's future agenda.

The United States will continue its efforts to build the needed consensus to establish the Working Party mandated in the URAA. At the WTO's first ministerial-meeting in Singapore, the United States WTO Ministers at Singapore said: "We believe that economic growth and development fostered by increased trade and further trade liberalization contribute to the promotion of [core labor] these standards. We reject the use of labor standards for protectionist purposes, and agree that the comparative advantages of countries, particularly low-wage developing countries, must in no way be put into question." With this as background, we believe that the WTO can contribute to work underway internationally, and that WTO members should address the perception that continues to persist that enforcement of core labor standards is incompatible with trade liberalization and economic growth. Starting with a working party is merely a necessary first step to determining what, if any, contribution the WTO can make in this area. The working groups now examining trade and competition policy and investment, are examples of WTO Members studying, but not necessarily negotiating, new issues.

With respect to the ILO, our intention is to foster greater cooperation between the ILO and WTO. Obviously, consensus on beginning the work outlined above will be a very important first step. We have been encouraged by the serious effort underway within the ILO about the possible development of a mechanism that would promote enforcement of labor standards.

Question #11

Another "principal trade objective" of your proposed legislation is to promote "sustainable development." How does the Administration define 'sustainable development," and how will you apply this definition to U.S. environmental laws during these negotiations?

Answer:

The concept of "sustainable development" does not imply any specific policy commitments, but rather a particular approach to policy making. A widely embraced concept, it has been included in numerous international agreements to which the United States is a party, including the 1992 Rio Declaration and the NAFTA (both signed and negotiated by President Bush) and the WTO Agreements. The UN's Brundtland Commission definition is widely used:

development which "meet[s] the needs of the present without compromising the ability of future generations to meet their own needs."

> -- The World Commission on Environment and Development (The Brundtland Commission), *Our Common Future* (Oxford: Oxford University Press, 1987).

Agenda 21, the Plan of Action of the 1992 Rio Summit, identifies trade liberalization as an important component of sustainable development.

This concept is incorporated into the Preamble to the WTO Agreement (in which parties commit to conducting their trade and economic relations so as to ". . . allow[ ] for optimal use of the world's resources in accordance with the objective of sustainable development. . .".) Similarly, in creating the WTO Committee on Trade and Environment (CTE), WTO members, at U.S. insistence, committed to promoting sustainable development and the aim of making international trade and environmental policies mutually supportive.

The Administration's bill envisions pursuing this negotiating objective by carefully taking into account the relationship between trade and environment both in formulating negotiating positions and in the course of the negotiations themselves. The Administration will work to ensure that trade protectionism in the guise of environmental protection is not countenanced, while at the same time ensuring that trade rules do not threaten the ability of the United States -- or that of other governments -- to protect domestic environmental policy interests. In addition, the Administration will look for situations where trade liberalization can enhance environmental protection and vice versa.

Question #12

Some special interest groups claim that one way to protect American workers is to prevent the passage of fast-track legislation. Is there any way in which not passing fast track legislation will help the American worker?

Answer:

Economic prospects for American workers will be hurt, not helped, if fast track legislation is not passed.

Over the last six decades the U.S. market has become largely open to imports while others -- particularly in now strong growing middle and low income countries -- remain more restricted. Fast track is about Congress and the President working together to close differentials in market access between the United States and our major trade partners in order to expand the benefits of international trade for U.S.

workers.

Growth in real compensation for American workers depends on growth in average productivity -- output per hour worked -- with more rapid productivity growth setting the stage for faster real compensation growth. The removal of foreign trade barriers helps enhance productivity growth and thus real labor compensation, by expanding production for export of America's most productive industries. U.S. non-supervisory jobs supported by goods exports pay wages that are 13% to 16% above the U.S. national average, reflecting the higher labor productivity in U.S. exporting sectors. Academic studies have found that jobs in predominantly import-competing sectors pay wages significantly below the U.S. national average and frequently have lower than average output per hour worked. Agreements that to open foreign markets have the effect of gradually shifting the composition of U.S. job growth over time toward more productive, more remunerative forms of employment. More open markets, in other words, help U.S. workers work "smarter" and earn more, by allowing the nation to expand output of the goods and services that it produces better than other countries around the world.

If fast track legislation is not enacted, U.S. workers -- current workers and young people not yet in the labor force -- will lose opportunities for higher paying jobs, and the country will lose an important opportunity for enhancing economic growth.

While U.S. workers overall benefit from agreements to open foreign markets further to U.S. exports, not every individual worker in the country is on the right side of this economic change. By far the largest source of job displacement in the U.S. economy is not trade, but, rather, technological advance -- be it automation on the factory floor or information technologies in the office. Some, not all, imports displace U.S. jobs, but academic studies agree that trade is a much smaller source of displacement than other factors. In trade agreements, the Congress and this Administration have been particularly sensitive to any job loss from imports. That is why the market opening elements of trade agreements are always phased in over time, with the most sensitive sectors for individual workers usually in the longest time frame. Also, special adjustment provisions such as the NAFTA-TAA also seek to provide the best available level of public assistance to those U.S. workers seeking retraining, new jobs, and/or interim income support because of job loss associated with imports.

From the national economic interest point of view, the situation is clear. Market opening agreements, enabled by fast track procedures, expand U.S. average labor productivity, average labor compensation, living standards and economic growth rates. For those individual workers who do not benefit from market-opening agreements, due to trade, technology or the shifting composition of U.S. consumption due demographic shifts, the best answer is not to inhibit the sources of change, but rather to assist individuals in acquiring the skills and knowledge to succeed in the evolving and increasing skill-oriented U.S. labor market.

Question #13

According to your proposed fast-track legislation, all environmental and labor provisions of the trade agreements must be negotiated through the WTO or ILO.

(a) Does this mean that future trade agreements will not establish independent organizations on labor and the environment, such as the North American Development Bank and Commission for Environmental Cooperation?

(b) It has been reported that Chile has already agreed to include labor and environmental provisions in a NAFTA expansion agreement. How would passage of fast-track legislation with the current language on environment and labor issues affect these negotiations?

Answer:

The Administration's proposal on fast track authority does not undermine the President's commitment, or capacity, to encourage other countries to both respect the rights of workers and to protect the environment. Specifically, the Administration's fast track proposal does not limit the President's capacity to pursue international labor or environmental initiatives consistent with his longstanding commitment to these objectives, and for which we plan to continue our efforts. These include efforts in the WTO, the ILO, the OECD and in both the Americas and Asia to encourage cooperation with respect to workers rights and the environment.

As to whether the Administration will seek to establish "independent" organizations on labor and the environment in the context of negotiating a trade agreement, as a general matter the Administration will consult closely with the Congress with respect to its objectives in regards particular trade agreements where the President will seek to utilize the fast track procedures to implement the accord. More specifically, should the President determine it appropriate to negotiate the creation of such institutions in the context of negotiating a trade agreement with a country(s), the Administration will consult the Congress in advance before making any decisions to pursue such a course of action, particularly if the approach has implications for U.S. law.

In regards Chile and how the Administration plans to proceed, the Administration's proposal does not legally preclude the Administration from reaching agreements like the NAFTA labor and environment agreements with Chile. In fact, Chile has indicated its willingness to conclude labor and environment agreements with the

U.S. as it did with Canada.

Suggested Questions on New Finance Committee Bill

Question #1:

On Wednesday, the Finance Committee is scheduled to mark up their own fast track bill, which was just made public a couple hours ago. I would like to ask you about the Administration's support for that bill, specifically:

-- **The President's authority would be strictly limited regarding negotiations on a range of issues including labor and environmental standards. If negotiations result in an agreement that would alter U.S. law in any of these areas, the President would not be entitled to use fast track authority.**

  Would the Administration support this restriction on its authority?

Answer:

Certain types of foreign government regulation and practices, including those relating to labor and the environment, can be used to provide a competitive advantage to local producers, services providers, and investors. Measures of this type may have an important impact on U.S. exports and on investment flows, and thus are the proper subject of fast track trade agreement negotiations. Government regulation in the environmental or labor areas that discriminates against U.S. goods, services, or investment, or whose object is to attract investment or inhibit U.S. exports -- such as by lowering or derogating from existing environmental or labor standards -- fall within this category.

The bill reported out of the Senate Finance Committee recognizes that these areas are the proper subject of fast track trade agreement negotiations. At the same time, the bill also makes clear that fast track negotiations and implementing legislation should not be used to bind U.S. Government discretion in setting labor and environmental or labor policy. The Administration agrees with this approach, and would expect to address more general international labor and environmental matters, where appropriate, through other negotiations and legislation.

-- **Congress could disapprove negotiations under two circumstances:**

  (1) the Finance or Ways and Means Committee could disapprove of the President's negotiations with 60 days of notification from the White House that negotiations are set to begin, or

(2) the full Congress can disapprove of ongoing negotiations, based on the failure of the President to consult Congress.

Similar provisions are included in the 1988 act. Would the Administration accept this provision?

Answer:

The Administration supports the bipartisan legislation reported by the Senate Finance Committee on October 1 and looks forward to working with the Senate and the House of Representatives to complete work on a fast track bill that will meet our shared objective of retaining leadership in international trade.

With respect to your inquiries regarding specific provisions in the Senate Finance bill relating to labor and the environment, we believe this language is consistent with the Administration's objectives with regard to labor and the environment. We do not beleive that the provisions in the Senate bill relating to labor and the enviornment restrict the ability of the President to pursue his environmental and labor goals.

With respect to the disapproval options, the Administration supports the provision regarding disapproval for failure to consult, but does not support the provision regarding disapproval of negotiations once they have been initiated. As indicated above, the Senate Finance bill contains extensive notice and consultaiton requirements, which the Administration believes are appropriate to reflect the important partnership of the Administration and Congress in this area.

In light of the extensive requirements, we believe Congress' role in shaping the negotiations, agreements, and implementing legislation obviate the need for disapproving negotiations before they commence. Moreover, as a practical matter, Congress retains the ability to vote an agreement down once its full contours are developed; we beleive this is a more appropriate time to consider the merits of a negotiation than before the negotiations even commence.

The Congressional fast-track withdrawal provision referred to in paragraph (2) is largely the same as it was under prior law, with the exception that under the bill reported by the Finance Committee it applies both to tariff and non-tariff negotiations and covers a failure by the President to notify as well as a failure to consult.

Question #2

In your written testimony, you each mention the importance of American leadership

on global labor and environmental standards, but neither of you mention a specific agenda to negotiate labor or environmental agreements.

--Does the Administration have specific goals to negotiate labor or environmental agreements?

--Will these plans be altered by the Finance Committee bill?

Answer:

The Administration remains committed to encouraging respect for core labor standards on a global basis and to encouraging sustainable development. We are pursuing these objective through a variety of means. The Finance Committee bill would not alter the Administrations plans in these areas.

For example, with respect to core labor standards, the Administration will, among a range of initiatives on this topic: 1) continue to pursue the creation of a working group in the WTO to examine trade and labor standards; 2) continue to seek the establishment in the ILO of a mechanism for the systematic examination of and reporting on the extent to which ILO members promote and enforce core labor standards; 3) build on the 1995 Inter-American Conference of Ministers of Labor at the 1998 labor ministerial meeting by seeking progress on encouraging respect for core labor standards in the Americas; and 4) seek to conclude labor and environmental cooperation agreements with Chile modeled on the NAFTA supplemental agreements.

The principal negotiating objective on labor and environment included in the President's proposal states that the U.S. we will, through the WTO, "promote sustainable development." This and the other environmental objective in principal negotiating objective 7 ("seek to ensure that trade and environmental protection are mutually supportive") were included to highlight the importance of continuing the ongoing efforts among WTO members to make trade liberalization consistent with the optimal use of the world's resources and environmental protection, and to clarify the relationship between trade and environmental policies -- a process that was begun with the creation of a Committee on Environmental Measures and International Trade in the early 1970s and institutionalized by the WTO in 1994 with the creation of the WTO Committee on Trade and Environment (CTE).

The Administration intends to pursue the environmental objectives by carefully taking into account the relationship between trade and environment both in formulating negotiating positions and in the course of the negotiations themselves. The Administration will work to ensure that trade protectionism in the guise of environmental protection is not countenanced, while at the same time ensuring that trade rules do not threaten the ability of the United States -- or that of other governments -- to protect domestic environmental policy interests. In addition, the Administration will look for situations where trade liberalization can enhance environmental protection and vice versa.

USTR Responses to Question from Senator Gorton
Senate Commerce Committee
Hearing on Fast Track
held 9/30/97

Question:

Ambassador Barshefsky, as you know, Mexico imposed a 101.1 percent prohibitive duty on all red delicious and golden delicious apple imports from the United States on September 1. This action has effectively shut the U.S. apple industry out of its number one export market and has literally stranded shipments of apples at the U.S.-Mexico border.

At a time when the Administration is seeking Congressional approval of fast track trade negotiating authority, this arbitrary action on the part of Mexico raises serious questions about the benefits of free trade agreements. We have a free trade agreement with Mexico, yet Mexico has chosen to ignore its obligations under NAFTA and the WTO to protect a small group of apple growers.

When I travel back to my home state of Washington, the largest producer of apples in the U.S., many people ask me how Mexico can shut our apples out of their market when Mexico is a signatory to NAFTA. I tell them that under NAFTA, we do have some recourse, but that the process is long and arduous. That is why I have written letters signed by my colleagues in other apple producing states to you, Secretary Daley, and the President asking for some immediate action. I know that you are committed to resolving this problem, but I am concerned that a resolution of this issue through NAFTA and WTO channels will be too long in coming. It seems to me that the best way to fix the problem is for the President to speak personally with the President of Mexico.

Can you tell me what actions the administration has taken or plans to take to restore U.S. apple exports to Mexico? Would you recommend that the President himself step in on behalf of U.S. apple growers?

Answer:

The Administration shares your concerns both about the potential serious impact of Mexico's actions to date on U.S. apple exports and the importance of doing everything necessary to ensure that Mexico is abiding by its international obligations. Shortly after learning of this development and after hearing from the U.S. apple industry and from interested Members of Congress, the Special Negotiator for Agriculture for Agriculture at USTR raised this issue at senior levels in the Government of Mexico. In addition, the Acting Assistant U.S. Trade Representative for North American Affairs traveled to Mexico on October 8 to spell out our concerns in detail with senior Mexican officials. We have made clear to Mexico that we find this situation unjustifiable. We will continue to press Mexico at every opportunity and will pursue additional high level efforts in this regard.

We will also continue to work cooperatively with industry to carry out a strategy to accomplish our shared objective -to resolve this issue as quickly as possible. We will keep your office and other interested Congressional offices informed of developments as we proceed.

USTR Responses to Question from Senator Inouye
Senate Commerce Committee
Hearing on Fast Track
held 9/30/97

Question:

There are some recent, promising developments in the World Trade Organization (WTO) that should help demonstrate the value of trade agreements for U.S. commerce. Two U.S. agricultural cases against the European Union--one involving bananas, the other involving beef hormones-- have received favorable WTO rulings. If the United States can obtain full and prompt compliance from the European Union, won't this go a long way towards building confidence in the WTO and trade agreements generally? In this regard, is the United States taking all necessary measures to ensure full compliance by the European Union in these two highly watched, precedent-setting cases?

Answer:

Compliance with trade agreements is key to building confidonco in thoso agreements. When we brought the cases you mention, we predicted that each would be a massive undertaking requiring months of effort by USTR litigators and negotiators, and our predictions proved correct. In the hormones case we have benefited from the wisdom and analysis of legal and scientific experts in other agencies of the U.S. government. Fortunately, the results so far have helped vindicate our efforts to build a fair and impartial dispute settlement regime in the WTO.

On September 25 the WTO Dispute Settlement Body (DSB) adopted, and the EU unconditionally accepted, the WTO Appellate Body and panel reports on the EU banana regime. As a result of that adoption, the rulings and recommendations of these reports have become rulings and recommendations of the WTO, and the EU is now answerable to the WTO as a whole for their implementation.

Throughout the bananas dispute, the United States has urged the EU, as well as its member States, to comply with the results of the dispute settlement process. We have sent USTR teams to several member States and our embassies in key European capitols have stressed the importance we place on EU compliance with the WTO reports. We have reiterated our willingness to work with the EU on a reformed banana regime that is consistent with WTO rules and that remedies the discriminatory conditions imposed on U.S. banana distribution companies. At the same time, we believe that changes to the EU regime should provide vulnerable Caribbean nations the ability to continue to export bananas to the EU market.

The panel report in the hormone case confirms the value of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures in distinguishing legitimate food safety requirements from unscientific and unjustified barriers to the exports of other WTO members. The panel agreed that the EU has no scientific basis for blocking the sale of American beef in Europe. This is a sign that the WTO dispute settlement system can handle complex and difficult disputes where a WTO member attempts to justify trade barriers by disguising them as health measures. The panel affirmed the need for food safety measures to be based on science, as they are in the United States.

On September 24 the EU appealed the panel reports in the hormones cases brought by the United States and Canada. The notice of appeal began another phase in this dispute, which will involve more briefs and an appellate hearing in Geneva. The Appellate Body is now scheduled to issue its report by November 23, but could extend this deadline by up to 30 days.

USTR officials meet with EU representatives on many occasions and at many levels every year. We have underlined to the EU the importance of both the bananas and hormones disputes to the United States and to the effectiveness of the WTO dispute settlement system-- a system which the United States and the EU more than any other WTO members. We will continue to remind the EU that we expect the EU to bring its bananas and hormones regimes into full conformity with its international obligations.

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USTR Responses to Questions from Senator McCain
Senate Commerce Committee
Hearing on Fast Track
held 9/30/97

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Question #1

My colleague, Senator Hollings, frequently argues that most trade agreements have been enacted without fast track. How do you justify, then, that fast track is necessary for future agreements?

Answer:

Fast track is needed only for trade agreements that call for changes in U.S. law. The vast majority of day-to-day trade agreements can be implemented under previously delegated authority from the Congress, or under the President's constitutional powers, without the need for further action by the Congress.

Emphasis

Fast track is vital for some of the most important agreements that the President negotiates -- those where the President must agree to make changes in U.S. tariffs or other domestic legislation in return for concessions from our trading partners. This is the type of agreement that fast track was designed to address.

Congress has repeatedly enacted fast track procedures in order to ensure that the United States can negotiate major trade agreements from a position of strength and unity. It tells our trading partners that the Congress and the President speak with one voice at the negotiating table. Fast track also addresses the concern of our trading partners that Congress will pick and choose those provisions of the agreement it wants to accept, delay implementation, or condition U.S. participation in the agreement in a manner incompatible with agreement the President strikes with them.

This concern is not hypothetical. In 1967, Congress used the legislative process to reject key component of two trade agreements concluded by President Johnson in the Kennedy Round -- including an antidumping agreement that the United States itself had proposed.

Both Congress and the President understood that this situation should not be repeated. Congress enacted fast track in 1974, and has renewed it repeatedly thereafter, to ensure that there would be a partnership between the Congress and the President in trade matters -- both in negotiating trade agreements and once they are concluded. Fast track makes certain -- through extensive consultations and give-and-take throughout the negotiations -- that the President works together with the Congress in fashioning trade agreements that serve the interests of the United States.

Question # 2:

What is the impact of not passing fast track this year?

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Answer:

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Question #3

Can you tell us the status of the Free Trade of the Americas Agreement? Is this agreement at threat if Fast Track is not enacted?

Answer:

At the third Free Trade Area of the Americas (FTAA) Ministerial held in Belo Horizonte, Brazil, in May 1997, the 34 Ministers responsible for trade agreed that sufficient progress had been made since the Miami Summit of the Americas that they would recommend that the Western Hemisphere presidents and prime ministers initiate the FTAA negotiations at the Santiago Summit of the Americas next April. The Ministers established a Preparatory Committee, constituted by the Vice Ministers, to make recommendations how the negotiations will proceed, i.e. on the objectives, approaches, structure and venue of the negotiations, as input for Ministers' decisions on these issues at their next meeting in San Jose, Costa Rica, in March 1998.

The PrepCom has held one meeting, in July 1997, at which the Vice Ministers discussed possible outlines for the San Jose Declaration, which would provide the Negotiating Plan for the FTAA. The 12 Working Groups are in the process of preparing reports on technical alternatives on possible issues and negotiating approaches in their respective disciplines which are to be provided as input to the Vice Ministers before the second PrepCom meeting at the end of October.

Without Fast Track, we will have less credibility with and influence on the other 33 governments in seeking to achieve our FTAA goals for the San Jose Ministerial and Santiago Summit. We are seeking to reach consensus on a commitment at the Santiago Summit to **simultaneously initiate** the FTAA negotiations **on all issues** identified by our Leaders in Miami, and any others agreed upon by the Ministers. Both publicly, and during the 34-country FTAA meetings, MERCOSUR has questioned whether we will be able to initiate FTAA negotiations next year without Fast Track. Other countries as well have questioned how we can push to have the FTAA negotiations initiated and strive for such a comprehensive state-of-the-art trade agreement without Fast Track. At a bare minimum, the absence of fast track has tended to diminish U.S. standing in meetings and delayed important work aimed at laying the foundation for a strong start to the negotiations. Fast Track gives the United States the credibility to negotiate tough trade deals because our partners know any agreement will not be reopened provision-by-provision by the Congress. We also are seeking to reach consensus on agreement to implement a very significant package of interim agreements by the year 2000, to meet our Leaders' mandate in Miami to achieve **concrete progress by the end of the century**. Our definition of "concrete progress" also would include full implementation of all FTAA countries' WTO and Uruguay Round commitments, and implementation of concrete business facilitation measures. Having Fast Track would be a critical to the hemisphere of our seriousness in meeting our deadline of concluding the FTAA

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negotiations by 2005, at the latest.

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Question #4

Has any foreign leader stated directly that they will not negotiate trade agreements without fast track?

Answer:

President Frei of Chile said in October 1995 "we are not going to negotiate as long as we do not have fast track". Importantly, Chile is the only one country to which the United States has committed to negotiate a comprehensive free trade agreement. President Frei's public remarks on fast track came after the negotiations to conclude such an agreement with Chile were halted in October 1995 because Chile was not willing to make the commitments necessary to conclude an agreement in the absence of fast track authority in the United States. [other leaders?]

Question #5

What is the current status of talks with Chile concerning NAFTA? Do you find that the Chileans are becoming tougher negotiating partners because they already have, or are in the process of negotiating, trade agreements with MERCOSUR, Canada, and Mexico?

Answer:

The Administration has not engaged in negotiations with Chile in regards a comprehensive free trade agreement since October 1995. However, a lot has happened since the negotiations broke down in 1995.

For example, Chile's 1996 agreement with MERCOSUR has led to a greater degree of coördination between Chile and MERCOSUR in regards trade and foreign policy and negotiations. Similarly, the Canada - Chile agreement was crafted as both an interim accord to full NAFTA accession and as a bilateral arrangement with characteristics unique to the Canada-Chile relationship. The Chile-Mexico negotiations are ongoing. The objective of those negotiations, as we understand it, is the expansion of the scope of their bilateral tariff elimination agreement that was implemented in 1992 to include more disciplines modeled on those contained in the NAFTA. Similarly, the EU and Chile have agreed to pursue a reciprocal trade agreement in the context of increased cooperation on a variety of fronts. The agreed target date for an accord is 1999.

Given what has occurred since 1995, the Administration is expecting that Chile's position on some issues may be revised from its initial 1995 stance in the negotiations in regards a comprehensive free trade agreement. However, we will only know the Chilean position on relevant issues once we resume the negotiations.

Question #6

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Question #7

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The Administration has argued that their fast track proposal would vastly expand the role of Congress in the negotiating of new trade agreements. What will this include? Specifically, how will a committee such as this one be involved in future trade agreements?

Answer:

The two fast-track bills currently pending in Congress contain what would be the most comprehensive notice and consultation requirements ever included in fast-track procedures. They provide that, even before negotiations begin, the President must inform Congress of what a proposed agreement will look like and what it will accomplish. Some of these notice and consultation provisions have been drawn directly from previous laws; others have been strengthened or added. Together, they ensure that Congress will be apprised of critical developments in trade negotiations and that Congress will have a meaningful opportunity to comment before an agreement is final.

The House and Senate bills incorporate the notice and consultation provisions of the Omnibus Trade and Competitiveness Act of 1988. These include the requirement that, before entering into a trade agreement, the President must consult with congressional committees having jurisdiction over matters that would be affected by it. And, at least 90 days in advance of entering into an agreement, the President must notify the House and the Senate of his intention to do so. Both bills also adopt the previous requirements that the President obtain advice from the International Trade Commission, the general public and congressionally-mandated advisory committees.

The bills go even further. They specify that, at least 90 days before initiating negotiations on an agreement subject to fast-track procedures, the President must provide Congress with written notice of his intention to enter into such negotiations. The notice must state the date on which negotiations are to begin, the specific U.S. objectives for the negotiations, and whether the President intends to seek a new agreement or changes to an existing agreement.

Importantly, the bills add the requirement that, both before and after submitting this notice, the President would be obligated to consult with relevant congressional committees. As a practical matter, this would mean that wherever the subject matter of an agreement falls within the purview of the Commerce Committee, the President will consult with the Committee prior to and throughout the course of negotiations. In these consultations, the President would not only share with the Committee his strategy and objectives for negotiations, but he also would keep the Committee informed of developments as negotiations progress.

In addition, both bills provide that no agreement subject to fast-track procedures may enter into force unless, within 60 calendar days after signing an agreement, the President submits to Congress a description of changes to existing laws needed to bring the United States into compliance with the agreement. And, both bills enhance the role played by the advisory committees by requiring that the appropriate committees provide Congress and the President with their views on a proposed agreement at least 60 days before the President enters into it.

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Under the Senate bill, the President would have to inform Congress during the course of negotiations of any contemplated side-agreements he intends to enter into with the country or countries in question, and he must notify Congress 90 days in advance of entering into an agreement whether legislation not subject to fast-track procedures may be necessary. The Senate bill also calls for closer consultations between the President and congressional advisers to negotiating delegations.

Like the Senate bill, the House bill contains some unique provisions that supplement notice and consultation provisions found in previous fast-track laws. The House bill would require advance consultations regarding negotiations that would address subjects within the scope of that bill's negotiating objectives on labor, the environment and other matters, as well as trade barriers and distortions. These consultations would include the manner in which the negotiations will reduce or eliminate tariff or non-tariff barriers or foreign government policies or practices that decrease market opportunities for U.S. exports or otherwise distort U.S. trade.

In addition, before initiating negotiations on agriculture, the President under the House bill must: (1) assess whether U.S. tariffs on agricultural products are lower than the country or countries involved in proposed negotiations; (2) consider whether tariff levels bound and applied throughout the world on agricultural products are higher than U.S. tariffs; (3) consider whether proposed negotiations provide an opportunity to address any such disparity; and (4) consult with the Congress regarding the results of these considerations, whether it is appropriate for the United States to further reduce its tariffs and how applicable negotiating objectives will be met.

Thus, the House and Senate bills make plain that, from the time the President determines that he will enter into negotiations to the culmination of the agreement, Congress -- and the Commerce Committee in particular -- will be a full partner in trade negotiations.

Question #8

The Administration's draft would effectively waive the requirement for congressional consultations in ongoing Information Technology Agreement. What level of consultations can this committee expect as part of the second phase of the Information Technology Agreement?

Answer:

Section 6(a) of the Senate bill and section 106(a) of the House bill provide that the requirement for the President to give pre-negotiation notice to, and engage in pre-negotiation consultations with, the Congress, does not apply with respect to certain negotiations that are currently underway, or that will have already commenced at the time fast-track procedures are renewed. The provision is necessary because it will be impossible for the President to meet advance notice and consultation requirements for negotiations that began before a final bill is enacted.

The purpose of the grandfather clause is only to exempt agreements designated in sections 6(a) and 106(a) of the respective bills from those notice or consultation requirements that are

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triggered prior to the initiation of negotiations. All other notice and consultation provisions would apply. Thus, such agreements will remain fully subject to the requirements that the President consult with relevant congressional committees during negotiations and prior to entering into an agreement; work closely with official congressional advisers in formulating strategy and developing bargaining terms; receive advice from the general public, private sector advisory committees, labor and environmental advisory committees, and the International Trade Commission; provide Congress with at least 90 days notice before entering into an agreement; explain to Congress how the agreement is to be implemented; and supply Congress with extensive supporting materials about the agreement.

Likewise, the grandfather provision would not affect the requirement that, during the course of negotiations, the President must consult with all committees having jurisdiction over issues that may be affected by an agreement. Such consultations are to include a description of the proposed agreement, how and to what extent the agreement will achieve applicable negotiating objectives, and plans for implementing the agreement. Failure to consult adequately under any of these applicable provisions could lead to the withdrawal of fast-track procedures for the agreement in question.

The bills make clear that the only agreements that will qualify for the limited exemption are those: 1) regarding information technology products under the auspices of the World Trade Organization; 2) contemplated under the World Trade Organization built-in agenda (regarding financial services and rules of origin); and 3) involving a free-trade area with Chile. As the Committee knows, negotiations for the Information Technology Agreement concluded in March 1997, and we expect the negotiations to supplement that agreement to begin shortly. Negotiations on rules of origin have been in progress for some time. Negotiations with Chile began in 1995.

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Question #9

Senator Gramm asked during the Finance Committee hearings whether the President could, and intended to, override State government right to work laws. Ambassador Barshefsky indicated that she would look into that issue. Do you have an answer today?

Case are [illegible] under law [illegible]? [illegible] [illegible] [illegible])

Answer:

The Administration does not intend to use fast track implementing legislation to make changes in State right to work laws.

Question #10

Question #11

Another "principal trade objective" of your proposed legislation is to promote "sustainable development." How does the Administration define 'sustainable development," and how will you apply this definition to U.S. environmental laws during these negotiations?

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Could add [illegible] concept as part of World Bank approach could give comp'l to Republicans

Answer:

The concept of "sustainable development" does not imply any specific policy commitments, but rather a particular approach to policy making. A widely embraced concept, it has been included in numerous international agreements to which the United States is a party, including the 1992 Rio Declaration and the NAFTA (both signed and negotiated by President Bush) and the WTO Agreements. The UN's Brundtland Commission definition is widely used:

Should we mention use to support more development

> development which "meet[s] the needs of the present without compromising the ability of future generations to meet their own needs."
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> -- The World Commission on Environment and Development (The Brundtland Commission), *Our Common Future* (Oxford: Oxford University Press, 1987).

Agenda 21, the Plan of Action of the 1992 Rio Summit, identifies trade liberalization as an important component of sustainable development.

This concept is incorporated into the Preamble to the WTO Agreement (in which parties commit to conducting their trade and economic relations so as to ". . . allow[ ] for optimal use of the world's resources in accordance with the objective of sustainable development. . .") Similarly, in creating the WTO Committee on Trade and Environment (CTE), WTO members, at U.S. insistence, committed to promoting sustainable development and the aim of making international trade and environmental policies mutually supportive.

The Administration intends to pursue this negotiating objective by carefully taking into account the relationship between trade and environment both in formulating negotiating positions and in the course of the negotiations themselves. The Administration will work to ensure that trade protectionism in the guise of environmental protection is not countenanced, while at the same time ensuring that trade rules do not threaten the ability of the United States -- or that of other governments -- to protect domestic environmental policy interests. In addition, the Administration will look for situations where trade liberalization can enhance environmental protection and vice versa.

Finally, under the President's proposal the Administration will notify Congress before entering into any negotiations to which fast track procedures apply, will lay out its specific environmental objectives, if any, in advance of initiating negotiations, and will consult closely with Congress and our private sector advisors regarding those objectives as well as other aspects of the negotiations throughout the process.

Question #12

Some special interest groups claim that one way to protect American workers is to prevent the passage of fast-track legislation. Is there any way in which not passing fast track legislation will help the American worker?

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Question #12

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Answer:

good

Economic prospects for American workers will be hurt, not helped, if fast track legislation is not passed.

A principal issue in the global economy facing American workers is that over the last 6 decades the U.S. market has become largely open to imports while others -- particularly in now strong growing middle and low income countries -- remain more restricted. Even under these conditions, U.S. workers face international competition every day and generally succeed; what fast track is especially about is the Congress and President working together to close differentials in market access between the United States and our major trade partners in order to further expand the benefits of international trade for U.S. workers.

Fundamentally, the growth in the real compensation of American workers depends on growth of average productivity -- output per hour worked -- with more rapid productivity growth setting the stage for faster real compensation growth. The removal of foreign trade barriers helps enhance productivity growth and thus real labor compensation, by expanding production for export of America's most productive industries. U.S. non-supervisory jobs supported by goods exports pay wages that are 13% to 16% above the U.S. national average, reflecting the higher labor productivity in U.S. exporting sectors. Academic studies have likewise found that jobs in predominantly import-competing sectors pay wages significantly below the U.S. national average and frequently ~~have lower than~~ average output per hour worked. Agreements that would be negotiated to open foreign markets and considered by the Congress under fast track procedures have the effect, therefore, of gradually shifting the composition of U.S. job growth over time toward more productive, more remunerative forms of employment. More open markets, in other words, help U.S. workers work "smarter" and earn more, by allowing the nation to expand output of the goods and services that it produces better than anywhere else in the world.

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If fast track legislation is not enacted, U.S. workers -- current workers and young people not yet in the labor force -- will lose opportunities for higher paying jobs, and the country will lose an important opportunity for enhancing economic growth.

While the Administration recognizes that U.S. workers overall benefit from agreements to open foreign markets further to U.S. exports, it also recognizes that not every individual worker in the country is on the right side of this economic change. By far the largest source of job displacement in the U.S. economy is not trade, but, rather, technological advance -- be it automation on the factory floor or information technologies in the office. Some, not all, imports displace U.S. jobs, but academic studies agree that trade is a much smaller source of displacement than other factors. In trade agreements, the Congress and this Administration have been particularly sensitive to any job loss from imports. That is why the market opening elements of trade agreements are always phased in over time, with the most sensitive sectors for individual workers usually in the longest time frame. Also, special adjustment provisions such as the NAFTA-TAA also seek to provide the best available level of public assistance to those U.S. workers seeking retraining, new jobs, and/or interim income support because of job loss associated with imports.

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From the national economic interest point of view, the situation is quite clear. Market opening agreements, enabled by fast track procedures, expand U.S. average labor productivity, average labor compensation, living standards and economic growth rates. For those individual workers on the wrong side of such generally beneficial change -- be from trade, technology or the shifting composition of U.S. consumption due demographic shifts -- the best answer is not to inhibit the sources of change, but rather to assist individuals in acquiring the skills and knowledge to succeed in the evolving and increasing skill-oriented U.S. labor market.

Question #13

According to your proposed fast-track legislation, all environmental and labor provisions of the trade agreements must be negotiated through the WTO or ILO.

(a) **Does this mean that future trade agreements will not establish independent organizations on labor and the environment, such as the North American Development Bank and Commission for Environmental Cooperation?**

(b) **It has been reported that Chile has already agreed to include labor and environmental provisions in a NAFTA expansion agreement. How would passage of fast-track legislation with the current language on environment and labor issues affect these negotiations?**

Could we be more affirmative?

Answer:

The Administration's proposal on fast track authority does not undermine the President's commitment, or capacity, to encourage other countries to both respect the rights of workers and to protect the environment. Specifically, the Administration's fast track proposal does not limit the President's capacity to pursue international labor or environmental initiatives consistent with his longstanding commitment to these objectives, and for which we plan to continue our efforts. These include efforts in the WTO, the ILO, the OECD and in both the Americas and Asia to encourage cooperation with respect to workers rights and the environment.

As to whether the Administration will seek to establish "independent" organizations on labor and the environment in the context of negotiating a trade agreement, as a general matter the Administration will consult closely with the Congress with respect to its objectives in regards particular trade agreements where the President will seek to utilize the fast track procedures to implement the accord. More specifically, should the President determine it appropriate to negotiate the creation of such institutions in the context of a negotiating a trade agreement with a country(s), the Administration will consult the Congress in advance before making any decisions to pursue such a course of action, particularly if the approach has implications for U.S. law.

In regards Chile and how the Administration plans to proceed, the Administration's proposal does not legally preclude the Administration from reaching agreements like the NAFTA labor and environment agreements with Chile. In fact, Chile has indicated its willingness to conclude NAFTA modeled labor and environment agreements with the U.S. as it did with Canada.

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Suggested Questions on New Finance Committee Bill

Question #1:

On Wednesday, the Finance Committee is scheduled to mark up their own fast track bill, which was just made public a couple hours ago. I would like to ask you about the Administration's support for that bill, specifically:

-- **The President's authority would be strictly limited regarding negotiations on a range of issues including labor and environmental standards. If negotiations result in an agreement that would alter U.S. law in any of these areas, the President would not be entitled to use fast track authority.**

Would the Administration support this restriction on its authority?

Answer:

Certain types of foreign government regulation and practices, including those relating to labor and the environment, can be used to provide a competitive advantage to local producers, services providers, and investors. Measures of this type may have an important impact on U.S. exports and on investment flows, and thus are the proper subject of fast track trade agreement negotiations. Government regulation in the environmental or labor areas that discriminates against U.S. goods, services, or investment, or whose object is to attract investment or inhibit U.S. exports -- such as by lowering or derogating from existing environmental or labor standards -- fall within this category.

The bill reported out of the Senate Finance Committee recognizes that these areas are the proper subject of fast track trade agreement negotiations. At the same time, the bill also makes clear that fast track negotiations and implementing legislation should not be used to bind U.S. Government discretion in setting labor and environmental or labor policy. The Administration agrees with this approach, and would expect to address more general international labor and environmental matters, where appropriate, through other negotiations and legislation.

-- **Congress could disapprove negotiations under two circumstances:**

(1) the Finance or Ways and Means Committee could disapprove of the President's negotiations with 60 days of notification from the White House that negotiations are set to begin, or

(2) the full Congress can disapprove of ongoing negotiations, based on the failure of the President to consult Congress.

Similar provisions are included in the 1988 act. Would the Administration accept this provision?

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Answer:

With regard to paragraph (1) above, the bill reported by the Finance Committee provides that if the Ways and Means and Finance committees disapprove a particular negotiation within 90 days of receiving notice of the President's intent to proceed with the negotiation, fast track will not apply to that negotiation.

The Congressional fast-track withdrawal provision referred to in paragraph (2) is largely the same as it was under prior law, with the exception that under the bill reported by the Finance Committee it applies both to tariff and non-tariff negotiations and covers a failure by the President to notify as well as a failure to consult.

The Administration is prepared to accept both conditions, although it does not consider either to be necessary in order to ensure the close Congressional-Executive cooperation that is a chief object of the bill.

Question #2

In your written testimony, you each mention the importance of American leadership on global labor and environmental standards, but neither of you mention a specific agenda to negotiate labor or environmental agreements.

> **--Does the Administration have specific goals to negotiate labor or environmental agreements?**
>
> **--Will these plans be altered by the Finance Committee bill?**

Answer:

The Administration remains committed to encouraging respect for core labor standards on a global basis and to encouraging sustainable development. We are pursuing these objective through a variety of means. The Finance Committee bill does not undermine or alter the Administrations plans in these areas.

For example, with respect to core labor standards, the Administration will, among a range of initiatives on this topic: 1) continue to pursue the creation of a Working Group in the WTO to examine trade and labor standards; 2) continue to seek the establishment in the ILO a mechanism for the systematic examination of and reporting on the extent to which ILO members promote and enforce core labor standards; 3) build on the 1995 Inter-American Conference of Ministers of Labor at the 1998 Labor Ministerial by seeking progress on encouraging respect for core labor standards in the Americas; and 4) seek to conclude labor and environmental cooperation agreements with Chile modeled on the NAFTA agreements currently in existence in North America.

The Administration's specific negotiating objective on labor and environment says that we will,

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through the WTO, "promote sustainable development." This and the other environmental objective in principal negotiating objective 7 (to seek to ensure that trade and environmental protection are mutually supportive) are included to highlight the importance of continuing the ongoing efforts among WTO members to make trade liberalization consistent with the optimal use of the world's resources and environmental protection, and to clarify the relationship between trade and environmental policies -- a process that was begun with the creation of a Committee on Environmental Measures and International Trade in the early 1970s and institutionalized by the WTO in 1994 with the creation of the WTO Committee on Trade and Environment (CTE).

The Administration intends to pursue these two negotiating objectives by carefully taking into account the relationship between trade and environment both in formulating negotiating positions and in the course of the negotiations themselves. The Administration will work to ensure that trade protectionism in the guise of environmental protection is not countenanced, while at the same time ensuring that trade rules do not threaten the ability of the United States -- or that of other governments -- to protect domestic environmental policy interests. In addition, the Administration will look for situations where trade liberalization can enhance environmental protection and vice versa.

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USTR Responses to Question from Senator Gorton
Senate Commerce Committee
Hearing on Fast Track
held 9/30/97

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Question:

Ambassador Barshefsky, as you know, Mexico imposed a 101.1 percent prohibitive duty on all red delicious and golden delicious apple imports from the United States on September 1. This action has effectively shut the U.S. apple industry out of its number one export market and has literally stranded shipments of apples at the U.S.-Mexico border.

At a time when the Administration is seeking Congressional approval of fast track trade negotiating authority, this arbitrary action on the part of Mexico raises serious questions about the benefits of free trade agreements. We have a free trade agreement with Mexico, yet Mexico has chosen to ignore its obligations under NAFTA and the WTO to protect a small group of apple growers.

When I travel back to my home state of Washington, the largest producer of apples in the U.S., many people ask me how Mexico can shut our apples out of their market when Mexico is a signatory to NAFTA. I tell them that under NAFTA, we do have some recourse, but that the process is long and arduous. That is why I have written letters signed by my colleagues in other apple producing states to you, Secretary Daley, and the President asking for some immediate action. I know that you are committed to resolving this problem, but I am concerned that a resolution of this issue through NAFTA and WTO channels will be too long in coming. It seems to me that the best way to fix the problem is for the President to speak personally with the President of Mexico.

Can you tell me what actions the administration has taken or plans to take to restore U.S. apple exports to Mexico? Would you recommend that the President himself step in on behalf of U.S. apple growers?

Answer:

This Administration shares your concerns both about the potential serious impact of Mexico's actions to date on U.S. apple exports and the importance of doing everything necessary to ensure Mexico is abiding by its international obligations. Shortly after learning of this development and after hearing from the U.S. apple industry and from interested Members of Congress, we raised this issue at senior levels in the Government of Mexico. Our initial expression of concern coming from the Special Negotiator for Agriculture at USTR. Furthermore, the Acting Assistant U.S. Trade Representative for North American Affairs at USTR specifically traveled to Mexico on October 8 to spell out our concerns in detail with senior Mexican officials. We have made clear to Mexico that we find this situation unjustifiable. We will continue to press Mexico at every good opportunity and will pursue additional high level efforts in this regard.

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We will also continue to work cooperatively with industry to develop the strategy to accomplish our shared objective - to resolve this issue as quickly as possible. We will keep your office and other interested Congressional offices informed of developments as we proceed.

USTR Responses to Question from Senator Inouye
Senate Commerce Committee
Hearing on Fast Track
held 9/30/97

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Question:

There are some recent, promising developments in the World Trade Organization (WTO) that should help demonstrate the value of trade agreements for U.S. commerce. Two U.S. agricultural cases against the European Union--one involving bananas, the other involving beef hormones-- have received favorable WTO rulings. If the United States can obtain full and prompt compliance from the European Union, won't this go a long way towards building confidence in the WTO and trade agreements generally? In this regard, is the United States taking all necessary measures to ensure full compliance by the European Union in these two highly watched, precedent-setting cases?

Answer:

Yes, there can be no question that compliance with trade agreements is key to building confidence in those agreements. When we brought these cases, we predicted that each would be a massive undertaking requiring months of effort by USTR litigators and negotiators, and our predictions proved correct. In the hormones case we have also benefited from the wisdom and analysis of legal and scientific experts elsewhere in the U.S. government. Fortunately, the results so far have supported the investment we have made in the WTO dispute settlement process.

On September 25 the WTO Dispute Settlement Body (DSB) adopted, and the EU unconditionally accepted, the WTO Appellate Body and panel reports on the EU banana regime. With adoption, the rulings and recommendations of these reports have become rulings and recommendations of the WTO, and the EU is now answerable to the WTO as a whole for their implementation.

The EU will announce its intentions regarding implementation at the next meeting of the DSB, on October 16. Throughout this dispute, the United States has urged the EU, as well as its member States, to comply with the results of the dispute settlement process. We have sent USTR teams to several member States and used U.S. Embassies to stress the importance we place on EU compliance with the WTO reports. We have reiterated our willingness to work with the EU on a reformed banana regime that is consistent with the WTO and remedies the discriminatory conditions imposed on U.S. banana exporting wholesale distribution companies. At the same time, changes to the EU regime should provide vulnerable Caribbean nations the ability to continue to export bananas to the EU market.

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We believe the panel report in the hormone case confirms the value of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures in distinguishing legitimate food safety requirements from unscientific and unjustified barriers to the exports of other WTO Members. The panel agreed that the EU has no scientific basis for blocking the sale of American beef in Europe. This is a sign that the WTO dispute settlement system can handle complex and difficult disputes where a WTO member attempts to justify trade barriers by thinly disguising them as health measures. The panel affirmed the need for food safety measures to be based on science, as they are in the United States.

On September 24 the EU appealed the panel reports in the hormones cases brought by the United States and Canada. The notice of appeal began another phase in this dispute, which will involve more briefs and an appellate hearing in Geneva. The Appellate Body is now scheduled to issue its report by November 23, but may extend this deadline by no more than 30 days if it is unable to complete the report by November 23.

We meet with EU representatives on many occasions and at many levels every year. We have underlined to the EU the importance of these disputes to the United States and to the effectiveness of the WTO dispute settlement mechanism -- a mechanism of which the United States and the EU are the two largest users. We will continue to remind the EU that we expect the EU to bring its measures into full conformity with its international obligations.

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Executive Office of the President
600 17TH STREET, NW
WASHINGTON, D.C. 20508

Office of Congressional Affairs

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To: **Linda** Eddleman
Office/Agency:
Fax Number: 69280

SUBJECT: USTR responses to Senate Commerce--near Final

From: **Nicole Venable**
Congressional Affairs Specialist

Phone: (202) 395-9495 FAX: (202) 395-4656

COMMENTS:

USTR Responses to Questions from Senator McCain
Senate Commerce Committee
Hearing on Fast Track
held 9/30/97

Question #1

My colleague, Senator Hollings, frequently argues that most trade agreements have been enacted without fast track. How do you justify, then, that fast track is necessary for future agreements?

Answer:

Fast track is needed only for trade agreements that call for changes in U.S. law. The vast majority of day-to-day trade agreements can be implemented under previously delegated authority from the Congress, or under the President's constitutional powers, without the need for further action by the Congress.

Fast track is vital for some of the most important agreements that the President negotiates -- those where the President must agree to make changes in U.S. tariffs or other domestic legislation in return for concessions from our trading partners. This is the type of agreement that fast track was designed to address.

Congress has repeatedly enacted fast track procedures in order to ensure that the United States can negotiate major trade agreements from a position of strength and unity. It tells our trading partners that the Congress and the President speak with one voice at the negotiating table. Fast track also addresses the concern of our trading partners that Congress will pick and choose those provisions of the agreement it wants to accept, delay implementation, or condition U.S. participation in the agreement in a manner incompatible with agreement the President strikes with them.

This concern is not hypothetical. In 1967, Congress used the legislative process to reject key components of two trade agreements concluded by President Johnson in the Kennedy Round -- including an antidumping agreement that the United States itself had proposed.

Both Congress and the President understood that this situation should not be repeated. Congress enacted fast track in 1974, and has renewed it repeatedly thereafter, to ensure that there would be a partnership between the Congress and the President in trade matters -- both in negotiating trade agreements and once they are concluded. Fast track makes certain -- through extensive consultations and give-and-take throughout the negotiations -- that the President works together with the Congress in fashioning trade agreements that serve the interests of the United States.

Question # 2:

What is the impact of not passing fast track this year?

Answer:

There are serious and immediate consequences if we do not renew fast track. Our competitors around the world are seizing trade opportunities as they arise, cementing commercial relationships and forming new trade alliances that leave our workers and firms at a disadvantage. In Latin America and Asia, for example, the two fastest growing regions of the world with millions of new consumers, governments are pursuing strategic trade policies and concluding preferential trade arrangements with each other and countries outside their regions. Our competitors are not waiting for us to pass a bill. In Latin America and Asia, over 20 such agreements have been negotiated since 1992. The United States is party to only one.

Argentina, Brazil, Paraguay, and Uruguay, for example, have formed a common market, MERCOSUR, which has a gross domestic product of approximately $1 trillion and a population of over 200 million and ambitions to expand to all of South America. The combined economy of the MERCOSUR countries is the largest in Latin America. MERCOSUR has recently put in place preferential trade agreements in place with Chile and Bolivia, and is aiming to conclude agreements with Colombia and Venezuela, as well as countries in the Caribbean Basin. There are recent reports that Canada is also in discussions with MERCOSUR.

Chile, with one of South America's leading economies, has signed trade agreements with Bolivia, Colombia, Ecuador, Mexico, Venezuela, Canada and MERCOSUR. Indeed, Chile has preferential trading relationships with every major trading country in our hemisphere but one -- the United States. Mexico has concluded market opening agreements with Colombia, Venezuela, Ecuador, Costa Rica, Guatemala and Chile and is negotiating an agreement with MERCOSUR and others in Central America.

Our failure to enact fast track disadvantages us in comparison with our industrialized competitors as well. Canada's new trade agreement with Chile, gives Canadian exporters substantial advantages over our companies. The European Union, already the world's largest trading bloc, has secured for its exporters significant advantages in the transition economies of Central and Eastern Europe. The EU is also determined to expand its trade relationships in Latin America and has agreed to pursue preferential tariff agreements with MERCOSUR, Chile and Mexico. Japan has undertaken high level efforts throughout Asia and Latin America to enhance commercial ties through investment and financial initiatives. China has designated five countries in Latin America - Brazil, Argentina, Chile, Mexico and Venezuela - as strategic priorities in which it is seeking to increase its commercial and political ties. Latin America was last year China's second fastest growing export market.

Access to the world's fastest-growing markets -- particularly those in Asia and Latin America, which are projected to grow at rates as much as three times the U.S. growth rate -- is especially important to America's economic future. More than 95 percent of the world's consumers reside outside the United States. Of the more than 30 million people who join the world's middle class annually, an estimated three-quarters are in emerging markets and other low and middle- income countries. These are the markets of the future. Our competitors understand that and are moving rapidly to position themselves to ensure preferential access to these fast growing markets.

The consequences of agreements being reached without us are not just theoretical; they are quite real. Many U.S. firms already are encountering significant competitive disadvantages created by preferential agreements that exclude the United States. That means our companies and workers are losing export opportunities. Examples are already evident:

- the American Chamber of Commerce in Chile estimates the United States will lose this year $500 million in exports sales in Chile alone due in large measure to Chile's recent preferential trade agreements with others;

- U.S. apple producers are at in risk in the key Latin American markets because their Chilean competitors face no duties, or very low duties, for their apple exports to those markets due to preferential tariff deals that Chile has negotiated with these countries. By contrast, U.S. producers often confront significant tariff walls when they sell into Latin American markets.

- U.S. corn producers are facing competition in Chile from Argentinean producers who enjoy a 3.3% tariff preference -- which will grow to 11% over time. U.S. corn producers could lose half their market share in Venezuela to Argentina because of Venezuela's relationship with MERCOSUR.

The United States can only redress these growing trade inequalities by concluding similar bilateral and regional agreements, as well as through negotiating new multilateral agreements that level the global trade playing field. The President needs fast track for this task.

As the President has said, fast track "is about whether other countries will continue to look to the United States to lead to a future of peace and freedom and prosperity." American leadership has helped bring about an unprecedented movement towards democracy, stability, and economic security in our hemisphere and around the world. Our sustained efforts to bring about fair and open trade worldwide have been a major reason for our success.

The President is committed to pursuing not only more open markets, but more open societies that encourage respect for core labor standards and for the environment. Failing to renew fast track will not promote any of these objectives. Fast track is vital if we want to continue our success and sustain American leadership over the years to come.

Question #3

Can you tell us the status of the Free Trade of the Americas Agreement? Is this agreement at threat if Fast Track is not enacted?

Answer:

At the third Free Trade Area of the Americas (FTAA) Ministerial held in Belo Horizonte, Brazil, in May 1997, the 34 Trade ministers responsible for trade agreed that sufficient progress had been made since the Miami Summit of the Americas that they would recommend that the Western Hemisphere presidents and prime ministers initiate the FTAA negotiations at the Santiago Summit of the Americas next April. The ministers established a Preparatory Committee (PrepCom), constituted by the vice ministers, to make recommendations on how the negotiations will proceed, i.e. on the objectives, approaches, structure and venue of the negotiations, in preparation for decisions on these issues at the next ministerial meeting in San Jose, Costa Rica, in March 1998.

The PrepCom has held one meeting, in July 1997, at which the vice ministers discussed possible outlines for the San Jose Declaration, which would establish a negotiating plan for the FTAA. The 12 working groups are in the process of preparing reports on possible issues and negotiating approaches in their respective disciplines, which are to be provided as input to the Vice Ministers before the second PrepCom meeting at the end of October.

Without fast track, we will have less credibility with and influence on the other 33 governments in seeking to achieve our FTAA goals for the San Jose Ministerial and Santiago Summit. We are seeking to reach consensus on a commitment at the Santiago Summit to **simultaneously initiate** the FTAA negotiations **on all issues** identified by Hemispheric leaders in Miami, and any other issues agreed upon by the ministers. Both publicly, and during the 34-country FTAA meetings, MERCOSUR has questioned whether we will be able to initiate FTAA negotiations next year without fast track. Other countries have questioned how the U.S. can push to have the FTAA negotiations initiated and to achieve a comprehensive state-of-the-art trade agreement without fast track. At a bare minimum, the absence of fast track has tended to diminish U.S. standing in meetings and delayed important work aimed at laying the foundation for a strong start to the negotiations. Fast track gives the United States the credibility to negotiate tough trade deals because our partners know any agreement will not be reopened provision-by-provision by the Congress. We also are seeking to reach consensus on agreement to implement a very significant package of interim agreements by the year 2000, to meet the mandate established in Miami to achieve concrete progress by the end of the century. Our definition of "concrete progress" also would include full implementation of all FTAA countries' WTO and Uruguay Round commitments, and implementation of concrete business facilitation measures. Having fast track would be a strong signal to the hemisphere of our seriousness in meeting our deadline of concluding the FTAA negotiations by 2005, at the latest.

Question #4

Has any foreign leader stated directly that they will not negotiate trade agreements without fast track?

Answer:

President Frei of Chile said in October 1995 "we are not going to negotiate as long as we do not have fast track". Chile is the one country to which the United States has committed to negotiate a comprehensive free trade agreement. President Frei's public remarks on fast track came after the negotiations to conclude such an agreement with Chile were halted in October 1995 because

Chile was not willing to make the commitments necessary to conclude an agreement in the absence of U.S. fast track authority. As indicated in the response to Question 3 above, other leaders in the region have questioned how we can initiate formal FTAA negotiations without fast track.

Question #5

What is the current status of talks with Chile concerning NAFTA? Do you find that the Chileans are becoming tougher negotiating partners because they already have, or are in the process of negotiating, trade agreements with MERCOSUR, Canada, and Mexico?

Answer:

Please see response to Question 4. The Administration has not engaged in negotiations with Chile in regards a comprehensive free trade agreement since October 1995 when negotiations broke down. However, a lot has happened since then.

For example, Chile's 1996 agreement with MERCOSUR has led to a greater degree of coordination between Chile and MERCOSUR in regard to trade negotiation with other governments. Similarly, the Canada - Chile free-trade agreement was crafted as both an interim step towards possible NAFTA accession and as a bilateral arrangement with characteristics unique to the Canada-Chile relationship. The Chile-Mexico negotiations are ongoing. The objective of those negotiations, as we understand it, is the expansion of the scope of their 1992 bilateral tariff elimination agreement to include further disciplines modeled on those contained in the NAFTA. Similarly, the EU and Chile have agreed to pursue a reciprocal trade agreement in the context of increased cooperation on a variety of fronts. The agreed target date for an accord is 1999.

Given what has occurred since 1995, it is likely that Chile's position on some issues may be revised when it returns to the bargaining table with the U.S. However, we will only know the Chilean position on relevant issues once we resume the negotiations.

Question #6

Question #7

The Administration has argued that their fast track proposal would vastly expand the role of Congress in the negotiating of new trade agreements. What will this include? Specifically, how will a committee such as this one be involved in future trade agreements?

Answer:

The two fast-track bills currently pending in Congress contain what would be the most comprehensive notice and consultation requirements ever included in fast-track. They create a strong partnership between the Congress and the President in choosing negotiating partners, setting priorities, and receiving and implementing completed agreements.

Both bills specify that, at least 90 days before initiating negotiations on an agreement subject to fast-track procedures, the President must provide Congress with written notice of his intention to enter into such negotiations. The notice must state the date on which negotiations are to begin, the specific U.S. objectives for the negotiations, and whether the President intends to seek a new agreement or changes to an existing agreement.

Importantly, the bills add the requirement that, before initiating negotiation, the President would be obligated to consult with any congressional committees that the President believes appropriate or (in the Senate bill) that request such consultation in writing. The Administration supports this additional Senate language. As a practical matter, this would mean that wherever the subject matter of an agreement falls within the purview of the Commerce Committee, the President will consult with the Committee prior to and throughout the course of negotiations. In these consultations, the President would not only share with the Committee his strategy and objectives for negotiations, but he also would keep the Committee informed of developments as negotiations progress.

Under the Senate bill, the President would have to inform Congress during the course of negotiations of any contemplated side-agreements he intends to enter into with the country or countries in question, and he must notify Congress 90 days in advance of entering into an agreement whether implementing legislation not subject to fast-track procedures may be necessary. Both bills also call for closer consultations between the President and congressional advisers to negotiating delegations.

Before entering into a trade agreement, the President must again consult with congressional committees having jurisdiction over matters that would be affected by it. And, at least 90 days in advance of entering into an agreement, the President must notify the House and the Senate of his intention to do so. Both bills also adopt the previous requirements that the President obtain advice from the International Trade Commission, the general public and congressionally-mandated advisory committees.

In addition, both bills provide that no agreement subject to fast-track procedures may enter into force unless, within 60 calendar days after signing an agreement, the President submits to Congress a description of changes to existing laws needed to bring the United States into compliance with the agreement. And, both bills enhance the role played by the advisory committees by requiring that the appropriate committees provide Congress and the President with their views on a proposed agreement at least 60 days before the President enters into it.

Thus, the House and Senate bills make plain that, from the time the President determines that he will enter into negotiations to the culmination of the agreement, Congress -- specifically including the Commerce Committee for negotiations and agreements subject to the Committee's jurisdiction -- will be a full partner in trade negotiations.

Question #8

The Administration's draft would effectively waive the requirement for congressional consultations in ongoing Information Technology Agreement. What level of consultations can this committee expect as part of the second phase of the Information Technology Agreement?

Answer:

Section 6(a) of the Senate bill and section 106(a) of the House bill provide that the requirement for the President to give pre-negotiation notice to, and engage in pre-negotiation consultations with, the Congress, does not apply with respect to certain negotiations that are currently underway, or that will have commenced prior to time fast-track procedures are renewed. The provision is necessary because it will be impossible for the President to meet advance notice and consultation requirements for negotiations that began before a final bill is enacted.

The purpose of the grandfather clause is only to exempt agreements designated in sections 6(a) and 106(a) of the respective bills from those notice or consultation requirements that are triggered prior to the initiation of negotiations. All other notice and consultation provisions would apply. Thus, such agreements will remain fully subject to the requirements that the President consult with relevant congressional committees during negotiations and prior to entering into an agreement; work closely with official congressional advisers in formulating strategy and developing bargaining terms; receive advice from the general public, private sector advisory committees, including the labor and environmental advisory committees, and the International Trade Commission; provide Congress with at least 90 days notice before entering into an agreement; explain to Congress how the agreement is to be implemented; and supply Congress with extensive supporting materials about the agreement.

The bills make clear that the only negotiations that will qualify for the limited exemption are those: 1) regarding information technology products under the auspices of the World Trade Organization; 2) initiated under the World Trade Organization; and 3) Chile. The WTO negotiations currently underway are those regarding the rules of origin and financial services.

Question #9

Senator Gramm asked during the Finance Committee hearings whether the President could, and intended to, override State government right to work laws. Ambassador Barshefsky indicated that she would look into that issue. Do you have an answer today?

Answer:

The Administration does not intend to use fast track implementing legislation to make changes in State right to work laws.

Question #10

In the "Principal Trade Objectives" section of your proposed legislation, you list promoting

"respect for internationally recognized worker rights" through the WTO, and [the] establishment [within] of the International Labor Organization as "a mechanism for the systemic examination of, reporting on, and accountability for the extent to which member governments promote and enforce core labor standards."

Does the Administration have plans to use the WTO and ILO to open up negotiations on labor issues as part of its major trade agenda?

Answer:

The Administration's proposed legislation sends a clear message about our enduring commitment to promote respect for internationally recognized worker rights. Within an agreement, we can address those aspects of foreign government policies and practices regarding labor, that are *directly related to trade* and decrease market opportunities for United States exports or distort United States trade. The question focuses on the activity envisioned in the WTO and the ILO.

With respect to the WTO, the Administration remains committed to pursuing within the WTO the establishment of a working party to examine the relationship of internationally recognized worker rights to GATT and WTO Articles, objectives and related instruments. Specifically, we are to explore the linkage between international trade and internationally recognized worker rights, taking into account differences in the level of development among countries; to examine the effects on international trade of the systematic denial of such rights; to consider ways to address such effects, and to develop methods to coordinate the work program of the working party with the International Labor Organization.

Successive Administrations, working closely with the Congress and the private sector have pressed to begin a dialogue in the GATT, and now WTO, on this important issue. Despite continued U.S. efforts, there as yet has not been the needed consensus to pursue formally this issue on the WTO's agenda. Opposition to consideration of this issue has focused on the concern of many countries that efforts to link trade and labor standards is being pursued for protectionist purposes. The United States continues to reject such claims.

U.S. efforts to pursue the relationship between trade and labor formally within the GATT have a long history. The Omnibus Trade and Competitiveness Act of 1988 established negotiating objectives for the United States in this area. Lack of a consensus within the GATT to pursue this issue has been the major obstacle to beginning a formal dialogue within the WTO as part of the Uruguay Round result. At the Marrakesh Ministerial Meeting in April 1994, labor standards was again identified as one of the possible issues for the WTO's future agenda.

The United States will continue its efforts to build the needed consensus to establish the Working Party mandated in the URAA. At the WTO's first ministerial-meeting in Singapore, the United States WTO Ministers at Singapore said: "We believe that economic growth and development fostered by increased trade and further trade liberalization contribute to the promotion of [core labor] these standards. We reject the use of labor standards for protectionist purposes, and agree that the comparative advantages of countries, particularly low-wage developing countries, must in no way be put into question." With this as background, we believe that the WTO can contribute to work underway internationally, and that WTO members should address the perception that continues to persist that enforcement of core labor standards is incompatible with trade liberalization and economic growth. Starting with a working party is merely a necessary first step to determining what, if any, contribution the WTO can make in this area. The working groups now examining trade and competition policy and investment, are examples of WTO Members studying, but not necessarily negotiating, new issues.

With respect to the ILO, our intention is to foster greater cooperation between the ILO and WTO. Obviously, consensus on beginning the work outlined above will be a very important first step. We have been encouraged by the serious effort underway within the ILO about the possible development of a mechanism that would promote enforcement of labor standards.

Question #11

Another "principal trade objective" of your proposed legislation is to promote "sustainable development." How does the Administration define 'sustainable development," and how will you apply this definition to U.S. environmental laws during these negotiations?

Answer:

The concept of "sustainable development" does not imply any specific policy commitments, but rather a particular approach to policy making. A widely embraced concept, it has been included in numerous international agreements to which the United States is a party, including the 1992 Rio Declaration and the NAFTA (both signed and negotiated by President Bush) and the WTO Agreements. The UN's Brundtland Commission definition is widely used:

> development which "meet[s] the needs of the present without compromising the ability of future generations to meet their own needs."
>
> -- The World Commission on Environment and Development (The Brundtland Commission), *Our Common Future* (Oxford: Oxford University Press, 1987).

Agenda 21, the Plan of Action of the 1992 Rio Summit, identifies trade liberalization as an important component of sustainable development.

This concept is incorporated into the Preamble to the WTO Agreement (in which parties commit to conducting their trade and economic relations so as to ". . . allow[ ] for optimal use of the world's resources in accordance with the objective of sustainable development. . .".) Similarly, in creating the WTO Committee on Trade and Environment (CTE), WTO members, at U.S. insistence, committed to promoting sustainable development and the aim of making international trade and environmental policies mutually supportive.

The Administration's bill envisions pursuing this negotiating objective by carefully taking into account the relationship between trade and environment both in formulating negotiating positions and in the course of the negotiations themselves. The Administration will work to ensure that trade protectionism in the guise of environmental protection is not countenanced, while at the same time ensuring that trade rules do not threaten the ability of the United States -- or that of other governments -- to protect domestic environmental policy interests. In addition, the Administration will look for situations where trade liberalization can enhance environmental protection and vice versa.

Question #12

Some special interest groups claim that one way to protect American workers is to prevent the passage of fast-track legislation. Is there any way in which not passing fast track legislation will help the American worker?

Answer:

Economic prospects for American workers will be hurt, not helped, if fast track legislation is not passed.

Over the last six decades the U.S. market has become largely open to imports while others -- particularly in now strong growing middle and low income countries -- remain more restricted. Fast track is about Congress and the President working together to close differentials in market access between the United States and our major trade partners in order to expand the benefits of international trade for U.S. workers.

Growth in real compensation for American workers depends on growth in average productivity -- output per hour worked -- with more rapid productivity growth setting the stage for faster real compensation growth. The removal of foreign trade barriers helps enhance productivity growth and thus real labor compensation, by expanding production for export of America's most productive industries. U.S. non-supervisory jobs supported by goods exports pay wages that are 13% to 16% above the U.S. national average, reflecting the higher labor productivity in U.S. exporting sectors. Academic studies have found that jobs in predominantly import-competing sectors pay wages significantly below the U.S. national average and frequently have lower than average output per hour worked. Agreements that to open foreign markets have the effect of gradually shifting the composition of U.S. job growth over time toward more productive, more remunerative forms of employment. More open markets, in other words, help U.S. workers work "smarter" and earn more, by allowing the nation to expand output of the goods and services that it produces better than other countries around the world.

If fast track legislation is not enacted, U.S. workers -- current workers and young people not yet in the labor force -- will lose opportunities for higher paying jobs, and the country will lose an important opportunity for enhancing economic growth.

While U.S. workers overall benefit from agreements to open foreign markets further to U.S.

exports, not every individual worker in the country is on the right side of this economic change. By far the largest source of job displacement in the U.S. economy is not trade, but, rather, technological advance -- be it automation on the factory floor or information technologies in the office. Some, not all, imports displace U.S. jobs, but academic studies agree that trade is a much smaller source of displacement than other factors. In trade agreements, the Congress and this Administration have been particularly sensitive to any job loss from imports. That is why the market opening elements of trade agreements are always phased in over time, with the most sensitive sectors for individual workers usually in the longest time frame. Also, special adjustment provisions such as the NAFTA-TAA also seek to provide the best available level of public assistance to those U.S. workers seeking retraining, new jobs, and/or interim income support because of job loss associated with imports.

From the national economic interest point of view, the situation is clear. Market opening agreements, enabled by fast track procedures, expand U.S. average labor productivity, average labor compensation, living standards and economic growth rates. For those individual workers who do not benefit from market-opening agreements, due to trade, technology or the shifting composition of U.S. consumption due demographic shifts, the best answer is not to inhibit the sources of change, but rather to assist individuals in acquiring the skills and knowledge to succeed in the evolving and increasing skill-oriented U.S. labor market.

Question #13

According to your proposed fast-track legislation, all environmental and labor provisions of the trade agreements must be negotiated through the WTO or ILO.

(a) **Does this mean that future trade agreements will not establish independent organizations on labor and the environment, such as the North American Development Bank and Commission for Environmental Cooperation?**

(b) **It has been reported that Chile has already agreed to include labor and environmental provisions in a NAFTA expansion agreement. How would passage of fast-track legislation with the current language on environment and labor issues affect these negotiations?**

Answer:

The Administration's proposal on fast track authority does not undermine the President's commitment, or capacity, to encourage other countries to both respect the rights of workers and to protect the environment. Specifically, the Administration's fast track proposal does not limit the President's capacity to pursue international labor or environmental initiatives consistent with his longstanding commitment to these objectives, and for which we plan to continue our efforts. These include efforts in the WTO, the ILO, the OECD and in both the Americas and Asia to encourage cooperation with respect to workers rights and the environment.

As to whether the Administration will seek to establish "independent" organizations on labor and the environment in the context of negotiating a trade agreement, as a general matter the Administration will consult closely with the Congress with respect to its objectives in regards particular trade agreements where the President will seek to utilize the fast track procedures to implement the accord. More specifically, should the President determine it appropriate to negotiate the creation of such institutions in the context of negotiating a trade agreement with a country(s), the Administration will consult the Congress in advance before making any decisions to pursue such a course of action, particularly if the approach has implications for U.S. law.

In regards Chile and how the Administration plans to proceed, the Administration's proposal does not legally preclude the Administration from reaching agreements like the NAFTA labor and environment agreements with Chile. In fact, Chile has indicated its willingness to conclude labor and environment agreements with the U.S. as it did with Canada.

Suggested Questions on New Finance Committee Bill

Question #1:

On Wednesday, the Finance Committee is scheduled to mark up their own fast track bill, which was just made public a couple hours ago. I would like to ask you about the Administration's support for that bill, specifically:

-- **The President's authority would be strictly limited regarding negotiations on a range of issues including labor and environmental standards. If negotiations result in an agreement that would alter U.S. law in any of these areas, the President would not be entitled to use fast track authority.**

Would the Administration support this restriction on its authority?

Answer:

Certain types of foreign government regulation and practices, including those relating to labor and the environment, can be used to provide a competitive advantage to local producers, services providers, and investors. Measures of this type may have an important impact on U.S. exports and on investment flows, and thus are the proper subject of fast track trade agreement negotiations. Government regulation in the environmental or labor areas that discriminates against U.S. goods, services, or investment, or whose object is to attract investment or inhibit U.S. exports -- such as by lowering or derogating from existing environmental or labor standards -- fall within this category.

The bill reported out of the Senate Finance Committee recognizes that these areas are the proper subject of fast track trade agreement negotiations. At the same time, the bill also makes clear that fast track negotiations and implementing legislation should not be used to bind U.S. Government discretion in setting labor and environmental or labor policy. The Administration agrees with this approach, and would expect to address more general international labor and environmental matters, where appropriate, through other negotiations and legislation.

-- **Congress could disapprove negotiations under two circumstances:**

(1) the Finance or Ways and Means Committee could disapprove of the President's negotiations with 60 days of notification from the White House that negotiations are set to begin, or

(2) the full Congress can disapprove of ongoing negotiations, based on the failure of the President to consult Congress.

Similar provisions are included in the 1988 act. Would the Administration accept this provision?

Answer:

The Administration supports the bipartisan legislation reported by the Senate Finance Committee on October 1 and looks forward to working with the Senate and the House of Representatives to complete work on a fast track bill that will meet our shared objective of retaining leadership in international trade.

With respect to your inquiries regarding specific provisions in the Senate Finance bill relating to labor and the environment, we believe this language is consistent with the Administration's objectives with regard to labor and the environment. We do not beleive that the provisions in the Senate bill relating to labor and the enviornment restrict the ability of the President to pursue his environmental and labor goals.

With respect to the disapproval options, the Administration supports the provision regarding disapproval for failure to consult, but does not support the provision regarding disapproval of negotiations once they have been initiated. As indicated above, the Senate Finance bill contains extensive notice and consultaiton requirements, which the Administration believes are appropriate to reflect the important partnership of the Administration and Congress in this area.

In light of the extensive requirements, we believe Congress' role in shaping the negotiations, agreements, and implementing legislation obviate the need for disapproving negotiations before they commence. Moreover, as a practical matter, Congress retains the ability to vote an agreement down once its full contours are developed; we beleive this is a more appropriate time to consider the merits of a negotiation than before the negotiations even commence.

The Congressional fast-track withdrawal provision referred to in paragraph (2) is largely the same as it was under prior law, with the exception that under the bill reported by the Finance Committee it applies both to tariff and non-tariff negotiations and covers a failure by the President to notify as well as a failure to consult.

Question #2

In your written testimony, you each mention the importance of American leadership on global labor and environmental standards, but neither of you mention a specific agenda to negotiate labor or environmental agreements.

--Does the Administration have specific goals to negotiate labor or environmental agreements?

--Will these plans be altered by the Finance Committee bill?

Answer:

The Administration remains committed to encouraging respect for core labor standards on a global basis and to encouraging sustainable development. We are pursuing these objective through a variety of means. The Finance Committee bill would not alter the Administrations plans in these areas.

For example, with respect to core labor standards, the Administration will, among a range of initiatives on this topic: 1) continue to pursue the creation of a working group in the WTO to examine trade and labor standards; 2) continue to seek the establishment in the ILO of a mechanism for the systematic examination of and reporting on the extent to which ILO members promote and enforce core labor standards; 3) build on the 1995 Inter-American Conference of Ministers of Labor at the 1998 labor ministerial meeting by seeking progress on encouraging respect for core labor standards in the Americas; and 4) seek to conclude labor and environmental cooperation agreements with Chile modeled on the NAFTA supplemental agreements.

The principal negotiating objective on labor and environment included in the President's proposal states that the U.S. we will, through the WTO, "promote sustainable development." This and the other environmental objective in principal negotiating objective 7 ("seek to ensure that trade and environmental protection are mutually supportive") were included to highlight the importance of continuing the ongoing efforts among WTO members to make trade liberalization consistent with the optimal use of the world's resources and environmental protection, and to clarify the relationship between trade and environmental policies -- a process that was begun with the creation of a Committee on Environmental Measures and International Trade in the early 1970s and institutionalized by the WTO in 1994 with the creation of the WTO Committee on Trade and Environment (CTE).

The Administration intends to pursue the environmental objectives by carefully taking into account the relationship between trade and environment both in formulating negotiating positions and in the course of the negotiations themselves. The Administration will work to ensure that trade protectionism in the guise of environmental protection is not countenanced, while at the same time ensuring that trade rules do not threaten the ability of the United States -- or that of other governments -- to protect domestic environmental policy interests. In addition, the

Administration will look for situations where trade liberalization can enhance environmental protection and vice versa.

USTR Responses to Question from Senator Gorton
Senate Commerce Committee
Hearing on Fast Track
held 9/30/97

Question:

Ambassador Barshefsky, as you know, Mexico imposed a 101.1 percent prohibitive duty on all red delicious and golden delicious apple imports from the United States on September 1. This action has effectively shut the U.S. apple industry out of its number one export market and has literally stranded shipments of apples at the U.S.-Mexico border.

At a time when the Administration is seeking Congressional approval of fast track trade negotiating authority, this arbitrary action on the part of Mexico raises serious questions about the benefits of free trade agreements. We have a free trade agreement with Mexico, yet Mexico has chosen to ignore its obligations under NAFTA and the WTO to protect a small group of apple growers.

When I travel back to my home state of Washington, the largest producer of apples in the U.S., many people ask me how Mexico can shut our apples out of their market when Mexico is a signatory to NAFTA. I tell them that under NAFTA, we do have some recourse, but that the process is long and arduous. That is why I have written letters signed by my colleagues in other apple producing states to you, Secretary Daley, and the President asking for some immediate action. I know that you are committed to resolving this problem, but I am concerned that a resolution of this issue through NAFTA and WTO channels will be too long in coming. It seems to me that the best way to fix the problem is for the President to speak personally with the President of Mexico.

Can you tell me what actions the administration has taken or plans to take to restore U.S. apple exports to Mexico? Would you recommend that the President himself step in on behalf of U.S. apple growers?

Answer:

The Administration shares your concerns both about the potential serious impact of Mexico's actions to date on U.S. apple exports and the importance of doing everything necessary to ensure that Mexico is abiding by its international obligations. Shortly after learning of this development and after hearing from the U.S. apple industry and from interested Members of Congress, the Special Negotiator for Agriculture for Agriculture at USTR raised this issue at senior levels in the Government of Mexico. In addition, the Acting Assistant U.S. Trade Representative for North American Affairs traveled to Mexico on October 8 to spell out our concerns in detail with senior Mexican officials. We have made clear to Mexico that we find this situation unjustifiable. We will continue to press Mexico at every opportunity and will pursue additional high level efforts in this regard.

We will also continue to work cooperatively with industry to carry out a strategy to accomplish our shared objective -to resolve this issue as quickly as possible. We will keep your office and other interested Congressional offices informed of developments as we proceed.

USTR Responses to Question from Senator Inouye
Senate Commerce Committee
Hearing on Fast Track
held 9/30/97

Question:

There are some recent, promising developments in the World Trade Organization (WTO) that should help demonstrate the value of trade agreements for U.S. commerce. Two U.S. agricultural cases against the European Union--one involving bananas, the other involving beef hormones-- have received favorable WTO rulings. If the United States can obtain full and prompt compliance from the European Union, won't this go a long way towards building confidence in the WTO and trade agreements generally? In this regard, is the United States taking all necessary measures to ensure full compliance by the European Union in these two highly watched, precedent-setting cases?

Answer:

Compliance with trade agreements is key to building confidence in those agreements. When we brought the cases you mention, we predicted that each would be a massive undertaking requiring months of effort by USTR litigators and negotiators, and our predictions proved correct. In the hormones case we have benefited from the wisdom and analysis of legal and scientific experts in other agencies of the U.S. government. Fortunately, the results so far have helped vindicate our efforts to build a fair and impartial dispute settlement regime in the WTO.

On September 25 the WTO Dispute Settlement Body (DSB) adopted, and the EU unconditionally accepted, the WTO Appellate Body and panel reports on the EU banana regime. As a result of that adoption, the rulings and recommendations of these reports have become rulings and recommendations of the WTO, and the EU is now answerable to the WTO as a whole for their implementation.

Throughout the bananas dispute, the United States has urged the EU, as well as its member States, to comply with the results of the dispute settlement process. We have sent USTR teams to several member States and our embassies in key European capitols have stressed the importance we place on EU compliance with the WTO reports. We have reiterated our willingness to work with the EU on a reformed banana regime that is consistent with WTO rules and that remedies the discriminatory conditions imposed on U.S. banana distribution companies. At the same time, we believe that changes to the EU regime should provide vulnerable Caribbean nations the ability to continue to export bananas to the EU market.

The panel report in the hormone case confirms the value of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures in distinguishing legitimate food safety requirements from unscientific and unjustified barriers to the exports of other WTO members. The panel agreed that the EU has no scientific basis for blocking the sale of American beef in Europe. This is a sign that the WTO dispute settlement system can handle complex and difficult disputes where a WTO member attempts to justify trade barriers by disguising them as health measures. The panel affirmed the need for food safety measures to be based on science, as they are in the United States.

On September 24 the EU appealed the panel reports in the hormones cases brought by the United States and Canada. The notice of appeal began another phase in this dispute, which will involve more briefs and an appellate hearing in Geneva. The Appellate Body is now scheduled to issue its report by November 23, but could extend this deadline by up to 30 days.

USTR officials meet with EU representatives on many occasions and at many levels every year. We have underlined to the EU the importance of both the bananas and hormones disputes to the United States and to the effectiveness of the WTO dispute settlement system-- a system which the United States and the EU more than any other WTO members. We will continue to remind the EU that we expect the EU to bring its bananas and hormones regimes into full conformity with its international obligations.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Executive Office of the President

600 17TH STREET, NW
WASHINGTON, D.C. 20508

Office of Congressional Affairs

October 16, 1997

Number of Pages excluding cover: 22

To: **Bob Kyl/Rosie**
Office/Agency: **WH**
Fax Number: x69280

SUBJECT: Draft USTR responses to Senate Commerce Questions

From: **Nicole Venable**
Congressional Affairs Specialist

Phone: (202) 395-9495 FAX: (202) 395-4656

COMMENTS:

We are still missing the response to questions 2 and 11. I will fax that when I get it from our policy shop. **Please review these responses as soon as possible. Thanks. Call Bob Novick if you have any questions or comments. Thanks.**

We do not plan to get these to the Committee by Oct 17th.

United States Senate

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

WASHINGTON, DC 20510-6125

October 2, 1997

The Honorable Charlene Barshefsky
United States Trade Representative
Executive Office of the President
Washington, D.C. 20508

Dear Madam Ambassador:

I am submitting to you additional questions to be included in the record for the September 30, 1997 hearing on the President's Request for Fast Track Trade Negotiating Authority. I would appreciate your assistance in obtaining answers from the appropriate Departmental officials. Answers would be appreciated by October 17, 1997.

I am also including questions that were submitted by Senators Slade Gorton and Daniel K. Inouye. Please send your responses to these questions directly to the respective Senator's office as well as the Committee.

Thank you for your attention to this matter.

Sincerely,

John McCain
Chairman

JM/kpl

POST-HEARING QUESTIONS

RISKS OF NOT PASSING FAST TRACK

Freiberg

1) My colleague, Senator Hollings, frequently argues that most trade agreements have been enacted without fast track. How do you justify, then, that fast track is necessary for future trade agreements?

Freiberg

2) What is the impact of not passing Fast Track this year?

Allgeier

3) Can you tell us the status of the Free Trade of the Americas Agreement? Is this agreement at threat if Fast Track is not enacted?

Huenemann

4) Has any foreign leader stated directly that they will not negotiate trade agreements without fast-track?

Huenemann

5) What is the current status of talks with Chile concerning NAFTA? Do you find that the Chileans are becoming tougher negotiating partners because they already have, or are in the process of negotiating, trade agreements with MERCOSUR, Canada, and Mexico?

Allgeier

6) It is obvious that MERCOSUR is moving to consolidate a free trade bloc in South America. Canada and Mexico are in negotiations with MERCOSUR. And, European Union and MERCOSUR have opened negotiations. Is a free trade bloc being constructed that will exclude us? What is the risk to our workers if that happens?

INCREASED CONGRESSIONAL CONSULTATION

Shapiro

7) The Administration has argued that their fast track proposal would vastly expand the role of Congress in the negotiating of new trade agreements. What will this include? Specifically, how will a committee such as this one be involved in future trade agreements?

Shapiro

8) The Administration's draft would effectively waive the requirement for congressional consultations in ongoing Information Technology Agreement. What level of consultation can this committee expect as part of the second phase of the Information Technology Agreement?

LABOR AND ENVIRONMENT

Freiberg

9) Senator Gramm asked during the Finance Committee hearings whether the President could, and intended to, override State government right to work laws. Ambassador Barshefsky indicated that she would look into that issue. Do you have an answer today?

10) In the "Principal Trade Objectives" section of your proposed legislation, you list promoting

Droskin
Haverkamp
Ryckman

> "respect for internationally recognized worker rights" through the WTO, and establishment of the International Labor Organization as "a mechanism for the systematic examination of, reporting on, and accountability for the extent to which member governments promote and enforce core labor standards."

Does the Administration have plans to use the WTO and ILO to open up negotiations on labor issues as part of its major trade agenda?

11) Another "principal trade objective" of your proposed legislation is to promote "sustainable development." How does the Administration define "sustainable development," and how will you apply this definition to U.S. environmental laws during these negotiations?

Haverkamp

12) Some special interest groups claim that one way to protect American workers is to prevent the passage of fast-track legislation. Is there any way in which not passing fast-track legislation will help the American worker?

Freiberg

13) According to your proposed fast-track legislation, all environmental and labor provisions of trade agreements must be negotiated through the WTO or ILO.

(a) Does this mean that future trade agreements will not establish independent organizations on labor and the environment, such as the North American Development Bank and Commission for Environmental Cooperation?

Hueneman

(b) It has been reported that Chile has already agreed to include labor and environmental provisions in a NAFTA expansion agreement. How would passage of fast-track legislation with the current language on environment and labor issues affect these negotiations?

Freiberg

SUGGESTED QUESTIONS ON NEW FINANCE COMMITTEE BILL

(1) On Wednesday, the Finance Committee is scheduled to mark up their own fast track bill, which was just made public a couple hours ago. I would like to ask you about the Administration's support for that bill, specifically:

-- The President's authority would be strictly limited regarding negotiations on a range of issues including labor and environmental standards. If negotiations result in an agreement that would alter U.S. law in any of these areas, the president would not be entitled to use fast track authority.

Greiberg

Would the Administration support this restriction on its' authority?

-- Congress could disapprove negotiations under two circumstances:

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(2) the full Congress can disapprove of ongoing negotiations, based on the failure of the president to consult Congress.

Similar provisions are included in the 1988 Act. Would the Administration accept this provision?

Haverkamp
Hreneman

(2) In your written testimony, you each mention the importance of American leadership on global labor and environmental standards, but neither of you mention a specific agenda to negotiate labor or environmental agreements.

-- Does the Administration have specific goals to negotiate labor or environmental agreements?

-- Will these plans be altered by the Finance Committee bill?

SLADE GORTON
WASHINGTON

730 HART SENATE OFFICE BUILDING
(202) 224-3441

United States Senate

WASHINGTON, DC 20510-4701

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Senator Slade Gorton
Question for Commerce Committee Hearing on Fast Track
September 30, 1997

Q: Ambassador Barshefsky, as you know, Mexico imposed a 101.1 percent prohibitive duty on all red delicious and golden delicious apple imports from the United States on September 1. This action has effectively shut the U.S. apple industry out of its number one export market and has literally stranded shipments of apples at the U.S. - Mexico border.

At a time when the Administration is seeking Congressional approval of fast track trade negotiating authority, this arbitrary action on the part of Mexico raises serious questions about the benefits of free trade agreements. We have a free trade agreement with Mexico, yet Mexico has chosen to ignore its obligations under NAFTA and the WTO to protect a small group of apple growers.

When I travel back to my home state of Washington, the largest producer of apples in the U.S., many people ask me how Mexico can shut our apples out of their market when Mexico is a signatory to NAFTA. I tell them that under NAFTA, we do have some recourse, but that the process is long and arduous. That is why I have written letters signed by my colleagues in other apple producing states to you, Secretary Daley, and the President asking for some immediate action. I know that you are committed to resolving this problem, but I am concerned that a resolution of the issue through NAFTA and WTO channels will be too long in coming. It seems to me that the best way to fix the problem is for the President to speak personally with the President of Mexico.

Can you tell me what actions the administration has taken or plans to take to restore U.S. apple exports to Mexico? Would you recommend that the President himself step in on behalf of U.S. apple growers?

QUESTION BY SENATOR DANIEL K. INOUYE
FOR AMBASSADOR CHARLENE BARSHEFSKY
UNITED STATES TRADE REPRESENTATIVE

Before the Senate Committee on Commerce,
Science, and Transportation
September 30, 1997

Bradley

There are some recent, promising developments in the World Trade Organization (WTO) that should help demonstrate the value of trade agreements for U.S. commerce. Two U.S. agricultural cases against the European Union--one involving bananas, the other involving beef hormones--have received favorable WTO rulings. If the United States can obtain full and prompt compliance from the European Union, won't this go a long way towards building confidence in the WTO and trade agreements generally? In this regard, is the United States taking all necessary measures to ensure full compliance by the European Union in these two highly watched, precedent-setting cases?

DRAFT

Suggested Questions on New Finance Committee Bill

Question #1:

On Wednesday, the Finance Committee is scheduled to mark up their own fast track bill, which was just made public a couple hours ago. I would like to ask you about the Administration's support for that bill, specifically:

-- **The President's authority would be strictly limited regarding negotiations on a range of issues including labor and environmental standards. If negotiations result in an agreement that would alter U.S. law in any of these areas, the President would not be entitled to use fast track authority.**

Would the Administration support this restriction on its authority?

Answer:

Certain types of foreign government regulation and practices, including those relating to labor and the environment, can be used to provide a competitive advantage to local producers, services providers, and investors. Measures of this type may have an important impact on U.S. exports and on investment flows, and thus are the proper subject of fast track trade agreement negotiations. Government regulation in the environmental or labor areas that discriminates against U.S. goods, services, or investment, or whose object is to attract investment or inhibit U.S. exports -- such as by lowering or derogating from existing environmental or labor standards -- fall within this category.

The bill reported out of the Senate Finance Committee recognizes that these areas are the proper subject of fast track trade agreement negotiations. At the same time, the bill also makes clear that fast track negotiations and implementing legislation should not be used to bind U.S. Government discretion in setting labor and environmental or labor policy. The Administration agrees with this approach, and would expect to address more general international labor and environmental matters, where appropriate, through other negotiations and legislation.

-- **Congress could disapprove negotiations under two circumstances:**

(1) the Finance or Ways and Means Committee could disapprove of the President's negotiations with 60 days of notification from the White House that negotiations are set to begin, or

(2) the full Congress can disapprove of ongoing negotiations, based on the failure of the President to consult Congress.

Similar provisions are included in the 1988 act. Would the Administration accept this provision?

DRAFT

DRAFT

Answer:

With regard to paragraph (1) above, the bill reported by the Finance Committee provides that if the Ways and Means and Finance committees disapprove a particular negotiation within 90 days of receiving notice of the President's intent to proceed with the negotiation, fast track will not apply to that negotiation.

The Congressional fast-track withdrawal provision referred to in paragraph (2) is largely the same as it was under prior law, with the exception that under the bill reported by the Finance Committee it applies both to tariff and non-tariff negotiations and covers a failure by the President to notify as well as a failure to consult.

The Administration is prepared to accept both conditions, although it does not consider either to be necessary in order to ensure the close Congressional-Executive cooperation that is a chief object of the bill.

Question #2

In your written testimony, you each mention the importance of American leadership on global labor and environmental standards, but neither of you mention a specific agenda to negotiate labor or environmental agreements.

> **--Does the Administration have specific goals to negotiate labor or environmental agreements?**
>
> **--Will these plans be altered by the Finance Committee bill?**

Answer:

The Administration remains committed to encouraging respect for core labor standards on a global basis and to encouraging sustainable development. We are pursuing these objective through a variety of means. The Finance Committee bill does not undermine or alter the Administrations plans in these areas.

For example, with respect to core labor standards, the Administration will, among a range of initiatives on this topic: 1) continue to pursue the creation of a Working Group in the WTO to examine trade and labor standards; 2) continue to seek the establishment in the ILO a mechanism for the systematic examination of and reporting on the extent to which ILO members promote and enforce core labor standards; 3) build on the 1995 Inter-American Conference of Ministers of Labor at the 1998 Labor Ministerial by seeking progress on encouraging respect for core labor standards in the Americas; and 4) seek to conclude labor and environmental cooperation agreements with Chile modeled on the NAFTA agreements currently in existence in North America.

The Administration's specific negotiating objective on labor and environment says that we will,

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through the WTO, "promote sustainable development." This and the other environmental objective in principal negotiating objective 7 (to seek to ensure that trade and environmental protection are mutually supportive) are included to highlight the importance of continuing the ongoing efforts among WTO members to make trade liberalization consistent with the optimal use of the world's resources and environmental protection, and to clarify the relationship between trade and environmental policies -- a process that was begun with the creation of a Committee on Environmental Measures and International Trade in the early 1970s and institutionalized by the WTO in 1994 with the creation of the WTO Committee on Trade and Environment (CTE).

The Administration intends to pursue these two negotiating objectives by carefully taking into account the relationship between trade and environment both in formulating negotiating positions and in the course of the negotiations themselves. The Administration will work to ensure that trade protectionism in the guise of environmental protection is not countenanced, while at the same time ensuring that trade rules do not threaten the ability of the United States -- or that of other governments -- to protect domestic environmental policy interests. In addition, the Administration will look for situations where trade liberalization can enhance environmental protection and vice versa.

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USTR Responses to Question from Senator Gorton
Senate Commerce Committee
Hearing on Fast Track
held 9/30/97

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Question:

Ambassador Barshefsky, as you know, Mexico imposed a 101.1 percent prohibitive duty on all red delicious and golden delicious apple imports from the United States on September 1. This action has effectively shut the U.S. apple industry out of its number one export market and has literally stranded shipments of apples at the U.S.-Mexico border.

At a time when the Administration is seeking Congressional approval of fast track trade negotiating authority, this arbitrary action on the part of Mexico raises serious questions about the benefits of free trade agreements. We have a free trade agreement with Mexico, yet Mexico has chosen to ignore its obligations under NAFTA and the WTO to protect a small group of apple growers.

When I travel back to my home state of Washington, the largest producer of apples in the U.S., many people ask me how Mexico can shut our apples out of their market when Mexico is a signatory to NAFTA. I tell them that under NAFTA, we do have some recourse, but that the process is long and arduous. That is why I have written letters signed by my colleagues in other apple producing states to you, Secretary Daley, and the President asking for some immediate action. I know that you are committed to resolving this problem, but I am concerned that a resolution of this issue through NAFTA and WTO channels will be too long in coming. It seems to me that the best way to fix the problem is for the President to speak personally with the President of Mexico.

Can you tell me what actions the administration has taken or plans to take to restore U.S. apple exports to Mexico? Would you recommend that the President himself step in on behalf of U.S. apple growers?

Answer:

This Administration shares your concerns both about the potential serious impact of Mexico's actions to date on U.S. apple exports and the importance of doing everything necessary to ensure Mexico is abiding by its international obligations. Shortly after learning of this development and after hearing from the U.S. apple industry and from interested Members of Congress, we raised this issue at senior levels in the Government of Mexico. Our initial expression of concern coming from the Special Negotiator for Agriculture at USTR. Furthermore, the Acting Assistant U.S. Trade Representative for North American Affairs at USTR specifically traveled to Mexico on October 8 to spell out our concerns in detail with senior Mexican officials. We have made clear to Mexico that we find this situation unjustifiable. We will continue to press Mexico at every good opportunity and will pursue additional high level efforts in this regard.

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We will also continue to work cooperatively with industry to develop the strategy to accomplish our shared objective - to resolve this issue as quickly as possible. We will keep your office and other interested Congressional offices informed of developments as we proceed.

USTR Responses to Question from Senator Inouye
Senate Commerce Committee
Hearing on Fast Track
held 9/30/97

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Question:

There are some recent, promising developments in the World Trade Organization (WTO) that should help demonstrate the value of trade agreements for U.S. commerce. Two U.S. agricultural cases against the European Union--one involving bananas, the other involving beef hormones-- have received favorable WTO rulings. If the United States can obtain full and prompt compliance from the European Union, won't this go a long way towards building confidence in the WTO and trade agreements generally? In this regard, is the United States taking all necessary measures to ensure full compliance by the European Union in these two highly watched, precedent-setting cases?

Answer:

Yes, there can be no question that compliance with trade agreements is key to building confidence in those agreements. When we brought these cases, we predicted that each would be a massive undertaking requiring months of effort by USTR litigators and negotiators, and our predictions proved correct. In the hormones case we have also benefited from the wisdom and analysis of legal and scientific experts elsewhere in the U.S. government. Fortunately, the results so far have supported the investment we have made in the WTO dispute settlement process.

On September 25 the WTO Dispute Settlement Body (DSB) adopted, and the EU unconditionally accepted, the WTO Appellate Body and panel reports on the EU banana regime. With adoption, the rulings and recommendations of these reports have become rulings and recommendations of the WTO, and the EU is now answerable to the WTO as a whole for their implementation.

The EU will announce its intentions regarding implementation at the next meeting of the DSB, on October 16. Throughout this dispute, the United States has urged the EU, as well as its member States, to comply with the results of the dispute settlement process. We have sent USTR teams to several member States and used U.S. Embassies to stress the importance we place on EU compliance with the WTO reports. We have reiterated our willingness to work with the EU on a reformed banana regime that is consistent with the WTO and remedies the discriminatory conditions imposed on U.S. banana exporting wholesale distribution companies. At the same time, changes to the EU regime should provide vulnerable Caribbean nations the ability to continue to export bananas to the EU market.

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We believe the panel report in the hormone case confirms the value of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures in distinguishing legitimate food safety requirements from unscientific and unjustified barriers to the exports of other WTO Members. The panel agreed that the EU has no scientific basis for blocking the sale of American beef in Europe. This is a sign that the WTO dispute settlement system can handle complex and difficult disputes where a WTO member attempts to justify trade barriers by thinly disguising them as health measures. The panel affirmed the need for food safety measures to be based on science, as they are in the United States.

On September 24 the EU appealed the panel reports in the hormones cases brought by the United States and Canada. The notice of appeal began another phase in this dispute, which will involve more briefs and an appellate hearing in Geneva. The Appellate Body is now scheduled to issue its report by November 23, but may extend this deadline by no more than 30 days if it is unable to complete the report by November 23.

We meet with EU representatives on many occasions and at many levels every year. We have underlined to the EU the importance of these disputes to the United States and to the effectiveness of the WTO dispute settlement mechanism -- a mechanism of which the United States and the EU are the two largest users. We will continue to remind the EU that we expect the EU to bring its measures into full conformity with its international obligations.

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Question #7

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The Administration has argued that their fast track proposal would vastly expand the role of Congress in the negotiating of new trade agreements. What will this include? Specifically, how will a committee such as this one be involved in future trade agreements?

Answer:

The two fast-track bills currently pending in Congress contain what would be the most comprehensive notice and consultation requirements ever included in fast-track procedures. They provide that, even before negotiations begin, the President must inform Congress of what a proposed agreement will look like and what it will accomplish. Some of these notice and consultation provisions have been drawn directly from previous laws; others have been strengthened or added. Together, they ensure that Congress will be apprised of critical developments in trade negotiations and that Congress will have a meaningful opportunity to comment before an agreement is final.

The House and Senate bills incorporate the notice and consultation provisions of the Omnibus Trade and Competitiveness Act of 1988. These include the requirement that, before entering into a trade agreement, the President must consult with congressional committees having jurisdiction over matters that would be affected by it. And, at least 90 days in advance of entering into an agreement, the President must notify the House and the Senate of his intention to do so. Both bills also adopt the previous requirements that the President obtain advice from the International Trade Commission, the general public and congressionally-mandated advisory committees.

The bills go even further. They specify that, at least 90 days before initiating negotiations on an agreement subject to fast-track procedures, the President must provide Congress with written notice of his intention to enter into such negotiations. The notice must state the date on which negotiations are to begin, the specific U.S. objectives for the negotiations, and whether the President intends to seek a new agreement or changes to an existing agreement.

Importantly, the bills add the requirement that, both before and after submitting this notice, the President would be obligated to consult with relevant congressional committees. As a practical matter, this would mean that wherever the subject matter of an agreement falls within the purview of the Commerce Committee, the President will consult with the Committee prior to and throughout the course of negotiations. In these consultations, the President would not only share with the Committee his strategy and objectives for negotiations, but he also would keep the Committee informed of developments as negotiations progress.

In addition, both bills provide that no agreement subject to fast-track procedures may enter into force unless, within 60 calendar days after signing an agreement, the President submits to Congress a description of changes to existing laws needed to bring the United States into compliance with the agreement. And, both bills enhance the role played by the advisory committees by requiring that the appropriate committees provide Congress and the President with their views on a proposed agreement at least 60 days before the President enters into it.

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Under the Senate bill, the President would have to inform Congress during the course of negotiations of any contemplated side-agreements he intends to enter into with the country or countries in question, and he must notify Congress 90 days in advance of entering into an agreement whether legislation not subject to fast-track procedures may be necessary. The Senate bill also calls for closer consultations between the President and congressional advisers to negotiating delegations.

Like the Senate bill, the House bill contains some unique provisions that supplement notice and consultation provisions found in previous fast-track laws. The House bill would require advance consultations regarding negotiations that would address subjects within the scope of that bill's negotiating objectives on labor, the environment and other matters, as well as trade barriers and distortions. These consultations would include the manner in which the negotiations will reduce or eliminate tariff or non-tariff barriers or foreign government policies or practices that decrease market opportunities for U.S. exports or otherwise distort U.S. trade.

In addition, before initiating negotiations on agriculture, the President under the House bill must: (1) assess whether U.S. tariffs on agricultural products are lower than the country or countries involved in proposed negotiations; (2) consider whether tariff levels bound and applied throughout the world on agricultural products are higher than U.S. tariffs; (3) consider whether proposed negotiations provide an opportunity to address any such disparity; and (4) consult with the Congress regarding the results of these considerations, whether it is appropriate for the United States to further reduce its tariffs and how applicable negotiating objectives will be met.

Thus, the House and Senate bills make plain that, from the time the President determines that he will enter into negotiations to the culmination of the agreement, Congress -- and the Commerce Committee in particular -- will be a full partner in trade negotiations.

Question #8

The Administration's draft would effectively waive the requirement for congressional consultations in ongoing Information Technology Agreement. What level of consultations can this committee expect as part of the second phase of the Information Technology Agreement?

Answer:

Section 6(a) of the Senate bill and section 106(a) of the House bill provide that the requirement for the President to give pre-negotiation notice to, and engage in pre-negotiation consultations with, the Congress, does not apply with respect to certain negotiations that are currently underway, or that will have already commenced at the time fast-track procedures are renewed. The provision is necessary because it will be impossible for the President to meet advance notice and consultation requirements for negotiations that began before a final bill is enacted.

The purpose of the grandfather clause is only to exempt agreements designated in sections 6(a) and 106(a) of the respective bills from those notice or consultation requirements that are

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triggered prior to the initiation of negotiations. All other notice and consultation provisions would apply. Thus, such agreements will remain fully subject to the requirements that the President consult with relevant congressional committees during negotiations and prior to entering into an agreement; work closely with official congressional advisers in formulating strategy and developing bargaining terms; receive advice from the general public, private sector advisory committees, labor and environmental advisory committees, and the International Trade Commission; provide Congress with at least 90 days notice before entering into an agreement; explain to Congress how the agreement is to be implemented; and supply Congress with extensive supporting materials about the agreement.

Likewise, the grandfather provision would not affect the requirement that, during the course of negotiations, the President must consult with all committees having jurisdiction over issues that may be affected by an agreement. Such consultations are to include a description of the proposed agreement, how and to what extent the agreement will achieve applicable negotiating objectives, and plans for implementing the agreement. Failure to consult adequately under any of these applicable provisions could lead to the withdrawal of fast-track procedures for the agreement in question.

The bills make clear that the only agreements that will qualify for the limited exemption are those: 1) regarding information technology products under the auspices of the World Trade Organization; 2) contemplated under the World Trade Organization built-in agenda (regarding financial services and rules of origin); and 3) involving a free-trade area with Chile. As the Committee knows, negotiations for the Information Technology Agreement concluded in March 1997, and we expect the negotiations to supplement that agreement to begin shortly. Negotiations on rules of origin have been in progress for some time. Negotiations with Chile began in 1995.

Question #9

Senator Gramm asked during the Finance Committee hearings whether the President could, and intended to, override State government right to work laws. Ambassador Barshefsky indicated that she would look into that issue. Do you have an answer today?

Answer:

The Administration does not intend to use fast track implementing legislation to make changes in State right to work laws.

Question #10

Question #11

Another "principal trade objective" of your proposed legislation is to promote "sustainable development." How does the Administration define 'sustainable development," and how will you apply this definition to U.S. environmental laws during these negotiations?

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Answer:

The concept of "sustainable development" does not imply any specific policy commitments, but rather a particular approach to policy making. A widely embraced concept, it has been included in numerous international agreements to which the United States is a party, including the 1992 Rio Declaration and the NAFTA (both signed and negotiated by President Bush) and the WTO Agreements. The UN's Brundtland Commission definition is widely used:

> development which "meet[s] the needs of the present without compromising the ability of future generations to meet their own needs."
>
> -- The World Commission on Environment and Development (The Brundtland Commission), *Our Common Future* (Oxford: Oxford University Press, 1987).

Agenda 21, the Plan of Action of the 1992 Rio Summit, identifies trade liberalization as an important component of sustainable development.

This concept is incorporated into the Preamble to the WTO Agreement (in which parties commit to conducting their trade and economic relations so as to ". . . allow[ ] for optimal use of the world's resources in accordance with the objective of sustainable development. . .".) Similarly, in creating the WTO Committee on Trade and Environment (CTE), WTO members, at U.S. insistence, committed to promoting sustainable development and the aim of making international trade and environmental policies mutually supportive.

The Administration intends to pursue this negotiating objective by carefully taking into account the relationship between trade and environment both in formulating negotiating positions and in the course of the negotiations themselves. The Administration will work to ensure that trade protectionism in the guise of environmental protection is not countenanced, while at the same time ensuring that trade rules do not threaten the ability of the United States -- or that of other governments -- to protect domestic environmental policy interests. In addition, the Administration will look for situations where trade liberalization can enhance environmental protection and vice versa.

Finally, under the President's proposal the Administration will notify Congress before entering into any negotiations to which fast track procedures apply, will lay out its specific environmental objectives, if any, in advance of initiating negotiations, and will consult closely with Congress and our private sector advisors regarding those objectives as well as other aspects of the negotiations throughout the process.

Question #12

Some special interest groups claim that one way to protect American workers is to prevent the passage of fast-track legislation. Is there any way in which not passing fast track legislation will help the American worker?

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Answer:

Economic prospects for American workers will be hurt, not helped, if fast track legislation is not passed.

A principal issue in the global economy facing American workers is that over the last 6 decades the U.S. market has become largely open to imports while others -- particularly in now strong growing middle and low income countries -- remain more restricted. Even under these conditions, U.S. workers face international competition every day and generally succeed; what fast track is especially about is the Congress and President working together to close differentials in market access between the United States and our major trade partners in order to further expand the benefits of international trade for U.S. workers.

Fundamentally, the growth in the real compensation of American workers depends on growth of average productivity -- output per hour worked -- with more rapid productivity growth setting the stage for faster real compensation growth. The removal of foreign trade barriers helps enhance productivity growth and thus real labor compensation, by expanding production for export of America's most productive industries. U.S. non-supervisory jobs supported by goods exports pay wages that are 13% to 16% above the U.S. national average, reflecting the higher labor productivity in U.S. exporting sectors. Academic studies have likewise found that jobs in predominantly import-competing sectors pay wages significantly below the U.S. national average and frequently have lower than average output per hour worked. Agreements that would be negotiated to open foreign markets and considered by the Congress under fast track procedures have the effect, therefore, of gradually shifting the composition of U.S. job growth over time toward more productive, more remunerative forms of employment. More open markets, in other words, help U.S. workers work "smarter" and earn more, by allowing the nation to expand output of the goods and services that it produces better than anywhere else in the world.

If fast track legislation is not enacted, U.S. workers -- current workers and young people not yet in the labor force -- will lose opportunities for higher paying jobs, and the country will lose an important opportunity for enhancing economic growth.

While the Administration recognizes that U.S. workers overall benefit from agreements to open foreign markets further to U.S. exports, it also recognizes that not every individual worker in the country is on the right side of this economic change. By far the largest source of job displacement in the U.S. economy is not trade, but, rather, technological advance -- be it automation on the factory floor or information technologies in the office. Some, not all, imports displace U.S. jobs, but academic studies agree that trade is a much smaller source of displacement than other factors. In trade agreements, the Congress and this Administration have been particularly sensitive to any job loss from imports. That is why the market opening elements of trade agreements are always phased in over time, with the most sensitive sectors for individual workers usually in the longest time frame. Also, special adjustment provisions such as the NAFTA-TAA also seek to provide the best available level of public assistance to those U.S. workers seeking retraining, new jobs, and/or interim income support because of job loss associated with imports.

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From the national economic interest point of view, the situation is quite clear. Market opening agreements, enabled by fast track procedures, expand U.S. average labor productivity, average labor compensation, living standards and economic growth rates. For those individual workers on the wrong side of such generally beneficial change -- be from trade, technology or the shifting composition of U.S. consumption due demographic shifts -- the best answer is not to inhibit the sources of change, but rather to assist individuals in acquiring the skills and knowledge to succeed in the evolving and increasing skill-oriented U.S. labor market.

Question #13

According to your proposed fast-track legislation, all environmental and labor provisions of the trade agreements must be negotiated through the WTO or ILO.

(a) **Does this mean that future trade agreements will not establish independent organizations on labor and the environment, such as the North American Development Bank and Commission for Environmental Cooperation?**

(b) **It has been reported that Chile has already agreed to include labor and environmental provisions in a NAFTA expansion agreement. How would passage of fast-track legislation with the current language on environment and labor issues affect these negotiations?**

Answer:

The Administration's proposal on fast track authority does not undermine the President's commitment, or capacity, to encourage other countries to both respect the rights of workers and to protect the environment. Specifically, the Administration's fast track proposal does not limit the President's capacity to pursue international labor or environmental initiatives consistent with his longstanding commitment to these objectives, and for which we plan to continue our efforts. These include efforts in the WTO, the ILO, the OECD and in both the Americas and Asia to encourage cooperation with respect to workers rights and the environment.

As to whether the Administration will seek to establish "independent" organizations on labor and the environment in the context of negotiating a trade agreement, as a general matter the Administration will consult closely with the Congress with respect to its objectives in regards particular trade agreements where the President will seek to utilize the fast track procedures to implement the accord. More specifically, should the President determine it appropriate to negotiate the creation of such institutions in the context of a negotiating a trade agreement with a country(s), the Administration will consult the Congress in advance before making any decisions to pursue such a course of action, particularly if the approach has implications for U.S. law.

In regards Chile and how the Administration plans to proceed, the Administration's proposal does not legally preclude the Administration from reaching agreements like the NAFTA labor and environment agreements with Chile. In fact, Chile has indicated its willingness to conclude NAFTA modeled labor and environment agreements with the U.S. as it did with Canada.

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RECORD ID: 9707040
RECEIVED: 16 OCT 97 14

TO: DAVIES

FROM: PETERSON, R

BK → LE
Could you review + send comments to Commerce? Thanks.

DOC DATE: 16 OCT 97
SOURCE REF: AER219

KEYWORDS: INTL TRADE
LATIN AMERICA

LEGISLATIVE REFERRAL

PERSONS:

SUBJECT: COMMERCE Q & A ON S-1269 RECIPROCAL TRADE AGREEMENTS ACT OF 1997 -- FOLLOW UP TO 30 SEP HEARING -- FAST TRACK AUTHORITY

ACTION: PREPARE MEMO DAVIES TO PETERSON   DUE DATE: 17 OCT 97   STATUS: S

STAFF OFFICER: LEE   LOGREF: 9706569

FILES: WH   NSCP: CODES:

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COMMENTS: *** URGENT: DUE 17 OCT @ 4:30 P.M. ***

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URGENT

Total Pages: 15

LRM ID: AER219

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Thursday, October 16, 1997

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

Ron Peterson

FROM: Ronald K. Peterson (for) Assistant Director for Legislative Reference

OMB CONTACT: Annette E. Rooney
PHONE: (202)395-7300 FAX: (202)395-5691

SUBJECT: **COMMERCE Qs and As on S1269 Reciprocal Trade Agreements Act of 1997 -- Followup to September 30th Hearing.**

DEADLINE: **4:30 Friday, October 17, 1997**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

COMMENTS: The Committee has requested these responses by October 17th.

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RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Annette E. Rooney Phone: 395-7300 Fax: 395-5691
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-6194

FROM: ______________________ (Date)

______________________ (Name)

______________________ (Agency)

______________________ (Telephone)

The following is the reponse of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: ______________________

_____ FAX RETURN of _____ pages, attached to this reponse sheet

Honorable John McCain/Honorable Daniel K. Inouye
Committee on Commerce, Science and Transportation
Washington, D.C. 20510-6125

Dear Mr. Chairman/Senator Inouye:

Enclosed are the responses to your follow-up questions from the September 30 hearing on fast track. If I can be of further assistance, please let me know.

Sincerely,

Secretary of Commerce

cc: Honorable Ernest F. Hollings

United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

October 2, 1997

The Honorable William Daley
Secretary
U.S. Department of Commerce
Washington, D.C. 20230

Dear Mr. Secretary:

I am submitting to you additional questions to be included in the record for the September 30, 1997 hearing on the President's Request for Fast Track Trade Negotiating Authority. I would appreciate your assistance in obtaining answers from the appropriate Departmental officials. Answers would be appreciated by October 17, 1997.

I am also including a question that was submitted by Senator Daniel K. Inouye. Please send your response to this question directly to the Senator's office as well as the Committee.

Thank you for your attention to this matter.

Sincerely,

John McCain
Chairman

JM/kpl

POST HEARING QUESTIONS

Question 1:

My colleague, Senator Hollings, frequently argues that most trade agreements have been enacted without fast track. How do you justify, then that fast track is necessary for future trade agreements?

Answer:

The President has authority to negotiate with foreign parties. Most of the agreements Senator Hollings is referencing have been agreements that break down foreign barriers in a particular sector, not requiring the United States to take any action on its own that would call for legislation. But in the case of reciprocal agreements like the Uruguay Round and the NAFTA, the United States had to take legislative action because we were also reducing U.S. tariffs and making changes to U.S. law.

As we look at the future, the upcoming agenda in the World Trade Organization in such areas as agriculture, government procurement and intellectual property as well as the second phase of the Information Technology Agreement may result in changes to U.S. tariffs, as well as possible changes to U.S. law. These changes would necessitate consideration by the Congress of implementing legislation using fast track procedures.

America's future prosperity is increasingly tied to the expansion of the global economy. In a world where over 96 percent of the world's consumers live outside the U.S. and the global economy is expected to grow at three times the rate of the U.S. economy, we must continue to export to be able to create more high skilled American jobs. Without fast track, America's hands will be tied in its ability to negotiate these critical agreements and drastically slow down our job creating potential.

Over the past four years, one-third of our economic growth came from trade. To take advantage of trade-related opportunities, we must continue to open export markets for America's companies and workers. If we don't move forward, US workers and companies, from telecommunications firms to agricultural producers, will lose out in foreign markets. With few trade barriers of its own, the United States can only gain by negotiating the elimination of much higher barriers overseas.

Question 2:

What is the impact of not passing Fast Track this year?

Answer:

Trade plays a key role in driving our economic engine and has accounted for one-third of our economic growth in the last four years. In fact, without these export gains, our GDP today would be $230 billion lower.

We need fast track now for several negotiations slated to start in the near future. In the WTO, we have government procurement negotiations starting later this year, intellectual property negotiations starting in 1998, and agriculture in 1999. In the case of agriculture, for example, it is incumbent upon the United States to engage more fully in what is now a $600 billion world agriculture market. The government procurement negotiations are also especially important for the United States, as it is estimated that the MERCOSUR countries will spend $200 billion over the next decade and they currently are subject to no government procurement disciplines under the WTO, and are free to discriminate against U.S. finns.

The proliferation of trade agreements in recent years that exclude the United States demonstrates the importance of not standing on the sidelines. For example, over the past three years, over 20 trade agreements have been signed with countries in the Western Hemisphere to which the United States is not a party. There is opportunity in the global marketplace -- if we choose to take it. If we choose not to, then the economic growth and jobs of tomorrow will go to those who take that challenge today. Unfortunately, in today's global competitive economy, the status quo does not mean standing in place; it means falling behind.

Question 3:

Can you tell us the status of the Free Trade Area of the Americas (FTAA) Agreement? Is this agreement at threat if fast track is not enacted?

Answer:

Since the Miami Summit, trade ministers and the private sectors of all participating countries have met in Denver (in July 1995), in Cartagena, Colombia (in March 1996), and most recently, in Belo Horizonte, Brazil (in May 1997). Working groups were established that are examining 12 policy areas that would form the basis of an agreement. In addition, business facilitation measures are being identified and agreed to in line with the Presidential directive to achieve concrete progress by the end of this century.

At the Belo Horizonte Ministerial meeting, Trade Ministers from the 34 democratic countries in the hemisphere reached agreement that formal FTAA negotiations should begin after the 2nd Summit of the Americas meeting in Santiago, Chile in April 1998. There is also a commonality of views that the FTAA will be based on the WTO agreements and be completed on schedule in 2005.

Without fast track, it will be very difficult for the United States to participate in these negotiations. Fast track authority is viewed by the countries in the Hemisphere as critical to the FTAA negotiations and as a symbol of the United States commitment to the region. Countries have made clear that they do not want to negotiate with the United States without fast track.

These countries are moving ahead without us.

Question 4 :

Has any foreign leader stated directly that they will not negotiate trade agreements without fast-track?

Answer:

While most foreign leaders will not comment on another country's ongoing domestic deliberations, the Chileans and President Frei have made it clear that free trade negotiations with Chile will not start without Congress renewing fast track negotiating authority. Singapore's Prime Minister Goh said at a recent US-ASEAN Business Council-sponsored conference that if the President is able to secure fast track he would like to see the United States explore the possibility of a US-ASEAN FTA. The Latin American Economic System (SELA) issued a report in September that described fast track negotiating authority as "vital to the process of the conformation of the Free Trade Area of the America (FTAA)."

In 1995, a series of discussions took place in Mexico City between the NAFTA partners and Chile, covering all aspects of Chile's trade and investment regime, in an effort to ease its entry as the fourth member of NAFTA. Chile was willing to discuss issues in each of the sectoral areas (e.g., tariffs, intellectual property rights, etc). Chile proved cooperative, willing to answer questions, and provide background information in each of the subject areas, despite the fact that it was under attack from a number of internal critics for negotiating with the United States in the absence of "fast track" negotiating authority. However, once it became clear that fast track was not a possibility, the discussions ended, and Chile began looking for other trade opportunities, eventually negotiating a separate trade arrangement with Canada and associate status with MERCOSUR. By the middle of 1998, Chile will have negotiated trade agreements with every nation in the Western Hemisphere except two - Cuba and the United States.

Question 5:

What is the current status of talks with Chile concerning NAFTA? Do you find that the Chileans are becoming tougher negotiating partners because they already have, or are in the process of negotiating, trade agreements with MERCOSUR, Canada, and Mexico?

Answer:

Immediately following the Summit of the Americas meeting in Miami in December 1994, President Clinton, Canadian Prime Minister Chretien, Mexican President Zedillo and Chilean President Frei jointly announced their intention to begin trade negotiations regarding Chile. Negotiations officially began in June 1995 and much progress was made toward reaching a free trade agreement with Chile. However, the failure to renew fast track negotiating authority, which expired at the end of 1994, caused these negotiations to stall. Chile was unwilling to continue negotiations on its most sensitive trade issues without the assurance that Congress would not be able to amend the agreement.

During Chilean President Frei's state visit to Washington, D.C. in late February, President Clinton renewed his commitment to sign a comprehensive free trade agreement with Chile. Once the Administration has successfully received fast track authority from Congress, the Administration expects to reopen its negotiations with Chile. A comprehensive trade agreement with Chile will be a vital step toward the broader goal of the FTAA.

While the U.S.-Chilean negotiations have been stalled, Chile has concluded trade agreements with several hemispheric countries: an association agreement with MERCOSUR that provides free trade between Chile and MERCOSUR; a Free Trade Agreement with Canada modeled on the NAFTA; and Mexico and Chile are working to expand their bilateral agreement this year. These arguments do not address some issues of importance to the United States, but until we reopen negotiations, we will not know the Chilean negotiating position. By next summer, Chile expects to have a free trade agreement with every country in the Western Hemisphere except Cuba and the United States if President Clinton is not granted fast track authority.

Chile has said it views a free trade agreement with the United States as an internationally recognized stamp of approval attesting to the openness of the Chilean economy and the success of their economic reforms.

We have not been able to negotiate with Chile since fast track expired in 1994. As such we can not make an assessment of how tough they have become. Clearly they have gained experience from their negotiations with MERCOSUR, Canada and Mexico.

Question 6:

It is obvious that MERCOSUR is moving to consolidate a free trade bloc in South America. Canada and Mexico are in negotiations with MERCOSUR. And, European Union and MERCOSUR have opened negotiations. Is a free trade bloc being constructed that will exclude us? What is the risk to our workers if that happens?

Answer:

Yes, Canada, Mexico and the European Union are all actively engaged in trade negotiations with MERCOSUR. Europe competes head-to-head with the United States as the major supplier to Latin America. In just the last few years, the European Community has set up 28 "Eurocenters" throughout Latin America to ensure, as French Prime Minister Chirac declared in his visit last year, "The future of Latin America is ... in Europe," not with the United States. Taking advantage of our position on the sidelines, the EU -- already the world's largest trading bloc -- is poised for a major expansion in the hemisphere and recently announced that it would conclude an EU-MERCOSUR free trade agreement before the end of 1999.

As such, not only does the United States have the distinction of being the only major country in this hemisphere that does not have a free trade agreement with Chile, but by the turn of the century the United States may find itself disadvantaged across-the-board in markets which, by sheer geography and historic ties, ought to be establishing their closest trade relationships with us.

If the United States is unable to conclude hemispheric trade agreements, U.S. companies and U.S. workers stand to lose. Trade plays a key role in driving our economic engine and accounted for one-third of our economic growth in the last four years. Without these export gains, our GDP would be $230 billion lower. Today exports account for one out of every five manufacturing jobs.

Question 7:

The Administration has argued that their fast track proposal would vastly expand the role of Congress in the negotiating of new trade agreements. What will this include? Specifically, how will a committee such as this one be involved in future trade agreements?

Answer:

As I explained in my testimony before the Committee, we take our consultations with Congress very seriously and regard these consultations as one of the strengths of the fast track process. The Administration envisions substantial consultations with Congress at every step along the way -- before, during and after trade agreement negotiations. The bills currently moving through

Congress, as well as the President's initial proposal, ensure Congress a central role in trade negotiations, including specific requirements that committees with jurisdiction over the subject matter of a particular agreement be consulted. Indeed, the degree of consultation with Congress called for under these bills is far greater than that ever before undertaken. As we move the fast track proposal forward in the coming weeks, I am committed to work with you to ensure the consultation process is adequate and appropriate.

Question 8:

The Administration's draft would effectively waive the requirement for congressional consultations in ongoing Information Technology Agreement. What level of consultation can this committee expect as part of the second phase of the Information Technology Agreement?

Answer:

The legislation reported out by the Senate Finance Committee, as well as the Administration's draft proposal, waives only the notice and consultation requirements normally required before negotiations are initiated, if such negotiations were commenced before the date of enactment of fast track authority. All of the other Congressional consultation requirements continue to apply to these negotiations. I recognize the importance of this sector to this committee and will ensure that this committee is fully consulted as the negotiations on the second phase of the Information Technology Agreement proceed.

Question 9:

Senator Gramm asked during the Finance Committee hearings whether the President could, and intended to, override State government right to work laws. Ambassador Barshefsky indicated that she would look into that issue. Do you have an answer today?

Answer:

The President has no intention of overriding State right-to-work laws. It is my understanding that Senator Gramm's question came up in the context of a discussion about the impact on state right--to-work laws of the United States' adoption of the ILO Declaration. According to the Department of Labor, by accepting the ILO Declaration, the United States would be reaffirming its longstanding belief in and adherence to the principles relating to the fundamental rights of all working people, regardless of their countries' level of economic development. These principles are known as core labor standards.

Even ILO Convention No. 87, which specifically deals with freedom of association and the right to organize, would not preclude any of our States from enacting right-to-work laws. According to the ILO Committee of Experts, the body responsible for interpreting Convention No. 87, the Convention leaves it to each member state to decide whether it is appropriate to guarantee the right of workers to not join a labor organization, and systems which prohibit union security practices in order to guarantee the right to not join are compatible with Convention No. 87.

Question 10:

In the "Principal Trade Objectives" section of your proposed legislation, you list promoting

> "respect for internationally recognized worker rights" through the WTO, and establishment of the International Labor Organization as a "mechanism for a systematic examination of, reporting on, and accountability for the extent to which member governments promote and enforce core labor standards."

Does the Administration have plans to use the WTO and ILO to open up negotiations on labor issues as part of its major trade agenda?

Answer:

We believe certain labor issues bear a significant relationship to the trade agenda and we are committed to progress in these areas. In international fora, particularly in the International Labor Organization, the Administration has made significant progress in defining and advancing core labor standards, including the right to organize and bargain collectively, freedom of association, prohibition on exploitative child labor, a prohibition on forced labor, and a commitment to non-discrimination in employment. We intend to continue to address worker rights in a variety of fora

Question 11:

Another "principal trade object" of your proposed legislative is to promote "sustainable development." How does the Administration define "sustainable development," and how will you apply this definition to U.S. environmental laws during these negotiations?

Answer:

The Department uses the same definition as used in the 1987 report by the World Commission on Environment and Development. Sustainable development is defined as "*development that meets the needs of the present without compromising the ability of future generations to meet their own needs*".

In practical terms, trade liberalization can contribute to sustainable development in a number of ways:

- First, liberalized trade generates increased economic efficiencies and increased wealth, both of which can make resources available for environmental protection.
- Related to this, steps should be taken when pursuing trade liberalization to assess the potential

environmental consequences in order to ensure that complementary environmental policies can be developed, where needed. This will help ensure that the economic gains to society from liberalized trade are not undercut by environmental degradation.

- Trade liberalization also fosters increased competition and spurs technological innovation. Where technology permits production of goods or services with lower resource consumption and increased efficiency, this can have positive environmental consequences.

- Additionally, countries participating in trade agreements can agree that it is inappropriate to "compete" for investment or to stimulate exports by relaxing existing environmental standards or their enforcement.

Question 12:

Some special interest groups claim that one way to protect American workers is to prevent the passage of fast-track legislation. Is there a way in which not passing fast-track legislation will help the American worker?

Answer:

No. The jobs of tomorrow are going to go to those who seize the opportunity today. If we choose to stand still, our competitors will move ahead. In today's global competitive economy, the status quo means falling behind.

Trade agreements are for all U.S. companies and all U.S. workers. The dollar impact of increased export sales reverberates throughout our economy, even affecting those companies and workers whose products are not exported, whose product is incorporated by their domestic customer into a product that is ultimately exported. Boeing Corporation, for example, procured more than $13 billion in components, parts and other goods and services from suppliers across every state in the United States.

Export-related jobs pay roughly 15 percent better than jobs in the non-traded sector. More and more U.S. jobs are dependent on exports -- an additional 2.2 million jobs since 1992. Rising exports increase U.S. living standards by putting our resources to work at what we do best. The real incomes of every segment of the U.S. workforce increased between 1993 and 1996, with the largest percentage increase for the lowest-paid workers.

In a dynamic, highly competitive economy such as the United States, workers continually shift jobs because of the growth in employment of more competitive firms and the decrease of less competitive firms. As a result, even in a vigorous, healthy economy such as ours some workers are losing jobs and a small share of these jobs are at the expense of increased imports. However, in a healthy growing economy it is far easier for those workers to find rewarding new jobs.

Question 13:

According to your proposed fast-track legislation, all environmental and labor provisions of trade agreements must be negotiated through the WTO or ILO.

(a) Does this mean that future trade agreements will not establish independent organizations on labor and the environment, such as the North American Development Bank and Commission for Environmental Cooperation?

(b) It has been reported that Chile has already agreed to include labor and environmental provisions in a NAFTA expansion agreement. How would passage of fast-track legislation with the current language on environment and labor issues affect these negotiations?

Answer:

(a) The identification of the World Trade Organization and the International Labor Organization as two important arenas for pursuing the Administration's objectives with regard to worker rights and protection of the environment was not intended to prohibit negotiation of side agreements on labor and the environment or the establishment of independent organizations such as the North American Development Bank and the Commission for Environmental Cooperation. The legislation reported out by the Finance Committee, which contains a number of provisions addressing labor and the environment, also recognizes that the President retains additional options for pursuing our labor and environmental objectives. We will be taking each negotiation on a case by case basis to best evaluate how to eliminate barriers and open foreign markets to U.S. products and services while continuing to raise standards for labor and environment.

(b) We are encouraged by Chile's interest in addressing labor and environmental issues. However, no decision has been made as to how to pursue these issues in the context of future U.S.-Chile negotiations.

SUGGESTED QUESTIONS ON NEW FINANCE COMMITTEE BILL

Question 1:

On Wednesday, the Finance Committee is scheduled to mark up their own fast track bill, which was just made public a couple hours ago. I would like to ask you about the Administration's support for that bill, specifically:

-- The President's authority would be strictly limited regarding negotiations on a range of issues including labor and environmental standards. If negotiations result in an agreement that would alter U.S. law in any of these areas, the president would not be entitled to use fast track authority.

Would the Administration support this restriction on its' authority?

-- Congress could disapprove negotiations under two circumstances:

(1) the Finance or Ways and Means Committee could disapprove of the president's negotiations with 60 days of notification from the White House that negotiations are set to begin, or

(2) the full Congress can disapprove of ongoing negotiations, based on the failure of the president to consult Congress.

Similar provisions are included in the 1988 Act. Would the Administration accept this provision?

Answer:

The Administration supports the bipartisan legislation reported by the Senate Finance Committee on October 1 and looks forward to working with the Senate and the House of Representatives to complete work on a fast track bill that will meet our shared objective of retaining the United States' leadership in international trade.

With respect to your inquiries regarding specific provisions in the Senate Finance bill relating to labor and the environment, we believe this language is consistent with the Administration's objectives with regard to labor and the environment. We do not believe that the provisions in the Senate bill relating to labor and the environment unreasonably restrict the ability of the President to pursue his environmental and labor objectives.

In addition, the Administration supports the specific provisions referenced with regard to

Congressional disapproval of fast track procedures for negotiations.

Question 2:

In your written testimony, you each mention the importance of American leadership on global labor and environmental standards, but neither of you mention a specific agenda to negotiate labor or environmental agreements.

-- Does the Administration have specific goals to negotiate labor or environmental agreements?

-- Will those plans be altered by the Finance Committee bill?

Answer:

We will be taking each agreement on a case by case basis to best evaluate how to open markets to U.S. products and services while continuing to raise standards for labor and the environment. When appropriate, we will seek to negotiate labor and environmental agreements under which countries would make commitments relating to labor and environment standards and enforcement. However, the Administration is pursuing its labor and environmental goals in a number of different fora. For example:

- The United States has led the world in defining and promoting core labor standards -- the right to organize and bargain collectively, freedom of association, a prohibition on exploitive child labor, a prohibition on forced labor, and a commitment to non-discrimination in employment.

- The Administration's Sweatshop Eradication initiative establishes an industry-wide partnership with labor organizations and consumer interests on wage and workplace conditions for apparel industry manufactures brings together labor union, businesses and others to end exploitive labor practices and improve working conditions, both here and abroad. Companies have already pledged to accept external monitoring of the labor practices.

- The Administration established the Committee on Trade and Environment in the WTO, for the first time ensuring a permanent forum for addressing these issues. We are confident that the combination of these tools will permit us to effectively advance our labor and environment agendas.

We do not believe that these efforts would be affected by adoption of the language in the fast track bill reported out of the Senate Finance Committee.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

600 17th Street NW
Washington, DC 20506
tel (202) 395-3417
fax (202) 395-3911

FAX TRANSMITTAL

To: Bob Kyle
cc: Eric
cc: Linda

From: Ken Freiberg 395-7305

Date: Wednesday, Sep 24, 1997 7:50 p.m.

Pages: 19 (including cover page)

MESSAGE

Bob:

Our draft responses to questions from Sens. Roth and Hatch. Please provide any comments you may have.

Questions from Chairman Roth

Question 1

The Administration's proposal includes a number of topics under the heading trade negotiating objectives, including labor and the environment, that, broadly read, could be used to implement potentially far-reaching changes in U.S. domestic law. How does the Administration intend to use this authority? For example, would this authority allow you to negotiate an agreement requiring significant changes in the Clean Air Act or U.S. labor laws?

Answer

The Administration does not intend to use fast track implementing legislation to make changes in U.S. labor, health, or environmental standards. We believe that fast track implementing bills should properly be limited to amendments or additions to U.S. law that are trade-related. In our view, changes in the standards imposed by such broadly applicable environmental or labor laws as the Clean Air Act, or the National Labor Relations Act, to cite two examples, would not bear a sufficient nexus to trade to be the subject of fast track implementing legislation.

On the other hand, Congress has repeatedly used fast track to make largely non-controversial changes in U.S. law -- in the areas of technical barriers to trade and sanitary and phytosanitary standards, or in connection with safeguards provisions and trade adjustment assistance -- that arguably were health-, environment-, or labor-related. For example, to carry out the WTO sanitary and phytosanitary agreement, Congress amended section 303 of the Federal Seed Act to provide for publication of a notice after the Secretary of Agriculture determines that imported alfalfa seed or red clover is not adapted for general agricultural use in the United States. We would consider that changes of this nature, where the relationship to trade is a clear one and the change is necessary or appropriate to carry out the trade agreement, fall within the purview of the Administration's proposal.

Finally, in considering the various negotiating objectives set out in the President's proposal it is important to bear in mind the elaborate notice and consultations provisions included in the draft legislation that will make the Congress a close partner in developing and considering appropriate specific objectives for particular negotiations. For example, as the President's proposal makes clear, the Administration will notify Congress before entering into any negotiations to which fast track procedures will apply, will lay out its specific negotiating objectives for the negotiations, if any, in advance, and will consult closely with Congress and the official private sector advisors regarding those objectives -- as well as other aspects of the negotiations -- throughout the process.

In order to create the maximum bargaining leverage with our trading partners, and to ensure the greatest degree of support for the agreements the President negotiates, it will be imperative for the Administration to work hand-in-hand with the Congress at each step. That has been the practice of this and past Administrations in connection with fast-track trade negotiations. It is a tradition that will be continued, and enhanced, under the President's proposal.

Question 2

The President's proposal would limit access to fast track to provisions which are necessary or appropriate to implement a trade agreement and which are directly [sic] related to trade. How do you define "directly related to trade" in this context? By reference to the negotiating objectives? What does "necessary" mean (i.e., necessary to implement the agreement or necessary to pass the implementing legislation)? Would you consider adding a condition requiring provisions to be directly related to the trade agreement submitted for Congressional approval under the fast track?

Answer

Fast track legislative procedures are an expression of Congress' internal rule-making powers. (See Section 5(c) of the proposed legislation). Thus, in enacting the President's proposal, the Congress will be establishing procedures governing certain aspects of its own business. Since the Congress is a legislative body -- rather than a court or executive agency -- such procedures ideally should be crafted in a manner consonant with Congress' broad, deliberative mandate. In our view, this argues for a standard designed for application in a political body rather than before a judicial tribunal.

The "necessary or appropriate" standard built into earlier fast track legislation has afforded considerable latitude for the inclusion of implementing provisions that were not strictly required ("necessary") to carry out a trade agreement. Congress has repeatedly made use of that flexibility to address trade matters that did not always bear a direct relationship to the implementation of the trade agreement itself. In fact, the very first fast track implementing legislation -- enacted in 1979 -- was as much a "trade act" as an implementing bill. It, like most of its successors, was enacted with overwhelming support.

More recently, the flexibility inherent in the "necessary or appropriate" language has enabled Members to address important domestic concerns that arose in connection with the implementation of particular trade agreements. For example, the Congress included in the 1994 Uruguay Round legislation various provisions addressing U.S. sovereignty concerns that were not strictly "necessary" for carrying out U.S. obligations under the WTO agreements. The same could be said of many other provisions of that legislation, including, for example, the establishment of future U.S. trade negotiating objectives.

The Administration's proposal would guard against the possibility that future fast track implementing bills could be used to enact legislation unrelated to U.S. international commercial relations. Provisions of this kind have, in fact, found their way into past fast track bills. For example, the Uruguay Round Agreements Act included provisions regarding the funding of pension plans.

We would caution against any formulation that would bind Members' discretion so severely that they could not adequately address the reasonable and relevant concerns of their constituents in connection with the operation and effect of future trade agreements. For example, it has proven desirable in past implementing legislation to include provisions providing assistance to workers displaced by trade flows with the country in question. The Administration would want to ensure that fast track germaneness requirements allowed for provisions of this sort in future implementing bills.

Finally, in considering whether the expression "related to trade" (or other suitable formulation) should be further articulated, it is important to bear in mind that the ultimate arbiters of such a germaneness standard are the Members of the House and Senate themselves. In the end, the question of whether particular provisions, or classes of provisions, should be included or excluded is political in nature and thus not susceptible to precise legal line drawing. Accordingly, in our view the germaneness test is best framed as a general guidepost, with sufficient flexibility for Members to meet legitimate and pertinent constituent concerns.

Question 3

The proposal does not appear to include the type of disapproval process used since the Trade and Tariff Act of 1984 for bilateral trade free trade agreements. Instead, it appears that a disapproval resolution would be in order only when the consultation procedures had not be met. Does that mean that the

Congress will no longer have the opportunity to register its disapproval of a particular negotiation if the President has satisfied the procedural requirements set out in the bill? Why was it necessary to make that change?

Answer

For many years, U.S. international trade agreements were largely, if not exclusively, the province of the two Congressional trade committees. Thus, as the Congress contemplated potential bilateral free-trade agreements beginning in 1984, the Finance and Ways and Means committees were provided exclusive authority to foreclose the application of fast-track procedures to particular bilateral free-trade agreements by disapproving free-trade negotiations before they got underway.

Over the past ten years, the scale and scope of U.S. bilateral free-trade agreements have increased dramatically. The number of Congressional committees with a direct and abiding interest in such agreements has grown proportionally. For example, over a dozen Congressional committees held hearings and informal "mark-ups" in connection with the NAFTA and its implementing legislation. In the light of the widespread committee interest in such agreements today, may not be possible to confine the pre-negotiation provisions of fast track legislation to those set out in the 1984 and 1988 acts.

Instead, the President's proposal widens and deepens fast track notice and consultations provisions. First, the proposal extends to *all* fast track negotiations -- not solely bilateral free-trade negotiations -- the requirement for the President to notify and consult in advance of initiating negotiations. Second, the President will be required to notify the Congress as a whole -- not simply the two trade committees -- and to consult regarding the proposed negotiations with *every* Congressional committee the President believes to have an interest in the negotiations. Third, at the same time the President will be required state in writing his *specific objectives* for the negotiations, with the understanding that these objectives will be a central part of the consultations he undertakes with the committees.

The object of these dramatically enhanced advance notice and consultation provisions is to ensure that all relevant Congressional committees of jurisdiction will be fully apprised of, and have an opportunity to provide advice to the President on, every fast-track negotiation prior to its launch. This means that Congressional views will be fully taken into account before a negotiation is initiated and will allow the President to adjust U.S. negotiating objectives and positions to reflect Congressional concerns and interests. These procedures will also provide an opportunity for the President in relevant cases to rethink the advisability of initiating particular negotiations should the committees express significant reservations that could not otherwise be addressed.

As a practical matter, no President will wish to negotiate a fast-track trade agreement without support from key Members and Congressional committees. Should he go forward with a negotiation without adequate Congressional support, the President would not only risk disapproval of any ensuing agreement but a resolution of one or both Houses withdrawing the application of fast track rules to that agreement.

Question 4

The proposal includes two negotiating objectives on the environment -- (1) to "promote sustainable development" and (2) to "seek to ensure that trade and environmental protection are mutually supportive." Please provide examples of how the Administration intends to fulfill that objective as a practical matter and how that initiative relates to reducing trade barriers abroad? For example, would this objective authorize the President, in the Administration's view, to negotiate agreements that would significantly modify existing U.S. environmental legislation and submit those proposed changes to U.S. law to Congress under the fast track proposal?

Answer

The environmental objectives in Principal Negotiating Objective 7 are included to highlight the importance of continuing the ongoing efforts among WTO Parties to make trade liberalization consistent with the optimal use of the world's resources and environmental protection, and to clarify the relationship between trade and environmental policies -- a process that was begun with the creation of a Committee on Environmental Measures and International Trade in the early 1970s and institutionalized by the WTO in 1994 with the creation of the WTO Committee on Trade and Environment (CTE).

Both environmental components of this negotiating objective -- the promotion of "sustainable development" and the aim of making trade and environment "mutually supportive" -- are widely embraced concepts, and have been included in numerous international agreements to which the United States is a party, including the 1992 Rio Declaration and the NAFTA (both signed and negotiated by President Bush) and the WTO Agreements.

The concept of "sustainable development" does not imply any specific policy commitments, but rather a particular approach to policymaking. It has been described [where? if we don't want to say, should we adopt this formulation] as development which "meets the needs of the present without compromising the ability of future generations to meet their own needs." This concept is incorporated into the Preamble to the WTO Agreement (in which parties commit to conducting their trade and economic relations so as to ". . . allow[ ] for optimal use of the world's resources in accordance with the objective of sustainable development. . ."). Similarly, in creating the WTO Committee on Trade and Environment (CTE), WTO members, at U.S. insistence, committed to promoting sustainable development and the aim of making international trade and environmental policies mutually supportive.

The Administration intends to pursue these two negotiating objectives by carefully taking into account the relationship between trade and environment as we formulate negotiating positions and as we participate in the negotiations themselves. We will work to ensure that protectionism in the guise of environmental protection is not countenanced, while at the same time ensuring that trade rules do not threaten our ability -- or that of other governments -- to protect domestic environmental policy interests. We will look for situations where trade liberalization can enhance environmental protection and vice versa. For example, analysis has shown that many **[some?]** agricultural subsidies that distort trade are also bad for the environment. Seeking to reduce or eliminate such subsidies would promote sustainable development. We would work to clarify positive relationships between trade rules and environmental policy objectives, as where, in the CTE, we are promoting a recognition that sound intellectual property regimes in an importing country facilitate rather than hinder the transfer of environmentally beneficial technology. At the same time, in negotiating trade agreements we would take care to ensure that any new rules would not require us to repeal, or forego developing, legitimate environmental laws and regulations in the United States.

We want to be clear that the environmental objectives set out in the President's proposal are not intended to suggest that the Administration seeks to negotiate environmental standards through the WTO, or other trade negotiations. Nor would the objectives lead to legislation changing U.S. environmental standards through fast track procedures. Our interest in pursuing environmental issues through the WTO is, as we and other WTO members stated in creating [?] the CTE: "to coordinate the policies in the field of trade and environment, and this without exceeding the competence of the multilateral trading system, which is limited to trade policies and those trade-related aspects of environmental policies which may result in significant trade effects for its members." (Preamble to Marrakesh Decision on Trade and Environment)

Finally, as the President's proposal makes clear, the Administration will notify Congress before entering into any negotiations to which fast track procedures will apply, will lay out its specific environmental objectives, if any, in advance of initiating negotiations and will consult closely with Congress and our private sector advisors regarding those objectives as well as other aspects of the negotiations throughout the process.

Question 5

The proposal includes an initiative designed to promote respect for worker's rights through the World Trade Organization. What will the Administration do within the WTO framework to accomplish this goal? What impact is that likely to have on the WTO institutionally? Is the WTO ultimately the appropriate place for this initiative?

Answer

The United States long sought -- with strong bipartisan leadership from the Congress -- to promote worker rights, and make the relationship between trade and worker rights a formal subject of examination, in the GATT, in particular through the establishment of a GATT working party on the subject. Section 1101(b)(14) of the Omnibus Trade and Competitiveness of 1988 set review of the relationship between trade and worker rights under the GATT as a principal negotiating objective for the United States in the Uruguay Round. The President was unable to achieve that objective in the Round, but the preamble to the Agreement Establishing the WTO does recognizes the relationship between trade and labor issues, acknowledging that international economic and trade relations " . . should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income . . ."

Congress called on the President in section 131 of the Uruguay Round Agreements Implementation Act to establish a multilateral working party on worker rights, this time under the soon-to-be-created World Trade Organization. Section 131 spells out in detail proposed objectives of the working party, among which are to explore the linkage between trade and worker rights and to examine the effects on international trade of the systematic denial of worker rights. The Administration has actively pursued its Congressional mandate on this subject, in coordination with like-minded governments. However, establishment of a working party requires the consensus of WTO members, which has not been achievable to date.

The worker rights language in the President's proposal largely repeats the language of the 1988 trade act, which covered not only urged an examination in the GATT of the relationship between trade and worker rights, but directed the President to promote respect for worker rights and to establish as a principle in the GATT that labor abuses should not be a means of securing advantages through trade. The concepts embodied in the 1988 legislation are broadly reflected in the 1994 NAFTA act provisions as well.

The worker rights agenda for the WTO laid out in the President's proposal is an expression of continuity in the importance that this and previous Administrations and Congresses have attached to this subject. In the near term, the agenda consists of building a consensus in the WTO in favor of addressing this subject, and in particular through a WTO working party. The Administration will continue to work with other countries to build the consensus necessary to begin such an examination within the WTO.

The language in the President's proposal signifies that the Congress and the Administration remain united on the importance of pursuing a dialogue in the WTO on trade and worker rights, and thus building on the progress achieved at the WTO's first ministerial meeting in Singapore. At Singapore trade ministers from WTO member countries committed for the first time to the observance of internationally recognized core labor standards, and encouraged the WTO and the International Labor Organization secretariats to continue their existing collaboration.

Since Singapore, U.S. negotiators have met with other like-minded governments to pursue WTO work in this area. Following up on the strong commitment in the Singapore Declaration, U.S. representatives have continued to use the Trade Policy Review Body's individual country review to make observations, both positive and negative, concerning other the observance by other WTO governments of core labor standards.

In pursuing this subject through the GATT, and now the WTO, succeeding Administrations have made clear that the WTO is not the proper forum for considering international minimum wages, labor standards, or other matters of general labor policy. Nevertheless, it is important for workers in the United States, and elsewhere, to see that their concerns are taken into account in trade matters. Moreover, continuing to discuss core labor standards in the WTO is related to the important work now underway in the International Labor Organization, and in pursuing voluntary commitments aimed at better enforcement of labor standards (for example, the work of the Apparel Industry

Partnership and the workplace code of conduct).

Question 6

The proposal announces that the Administration's intent to seek review within the WTO of the relationship between worker's rights and the provisions and objectives of the WTO. Normally, a WTO review is the first step toward eventual negotiations on a topic. Is that the intent here? What does the Administration expect will result from this review.

Answer

This provision of the President's proposal carries forward nearly identical language from the 1988 act. This language has been generally understood to call, in the first instance, for the establishment of a GATT (or now WTO) working party to examine the relationship between trade and internationally recognized worker rights. The establishment of a carry WTO working party is generally the first step in determining what, if any, further WTO action should be taken in a particular subject area. However, negotiations do not always ensue after a working party completes its work.

Alternative One: [WTO Ministers at Singapore said: "We believe that economic growth and development fostered by increased trade and further trade liberalization contribute to the promotion of [core labor] standards. We reject the use of labour standards for protectionist purposes, and agree that the comparative advantages of countries, particularly low-wage developing countries, must in no way be put into question." With this as background, we believe that the WTO can contribute to work underway internationally, and that WTO members should address the perception that continues to persist that enforcement of core labour standards is incompatible with trade liberalization and economic growth. Starting with a working party is merely a necessary first step to determining what, if any, contribution the WTO can make in this area. The working groups now examining trade and competition policy and investment, as well as the Committee on Trade and Environment are all examples of WTO Members studying, but not negotiating, new issues. At a minimum, it should serve to dismiss the serious misperception that workers do not benefit from trade liberalization. Given the work underway in the ILO, and efforts to establish a mechanism within the ILO that will ensure better observance of core labor standards, a WTO working party could make a valuable contribution.

Alternative Two: [The President's negotiating objective on this subject should read in the light of section 134 of the Uruguay Round Agreements Act, which directs the President to seek the establishment in the WTO of a working party to examine the relationship between internationally recognized worker rights and the articles, objectives, and related instruments of the GATT and WTO. Section 134(b) specifies that the U.S. objectives for the working party are to:

(1) explore the linkage between international trade and internationally recognized worker rights, . . . taking into account differences in development between countries;

(2) examine the effects on international trade of the systematic denial of such rights;

(3) consider ways to address such effects; and

(4) develop methods to coordinate the work program of the working party wit the International Labor Organization.

The Administration would expect to be guided by this language in setting the agenda for the WTO working party once it is established.]

Question 7

The Administration's proposal requires that U.S. negotiators take into account domestic objectives regarding health and safety, national security, the environment, consumer or employment opportunities in using their negotiating authority. That provision appears to be drawn from a far narrower context in previous legislation (services negotiations) to apply to all trade and investment negotiations under the Administration's proposal. How will those objectives be taken into account? Who will define "domestic objectives?" Congress? Executive agencies?

Answer

The provision in question, section 2(c)(1) of the President's proposal, was first included in the Trade and Tariff Act of 1984 and figured in the 1988 trade act as well. In both cases, the language was included at the request of the Senate and applied both to the pertinent services and investment negotiating objectives.

While the provision was previously limited to the context of services and investment, the domestic objectives included in section 2(c)(1) are broadly applicable across the range of trade areas. They reflect vital American concerns and interests and have long served as guideposts for U.S. trade negotiators.

Indeed, the United States has repeatedly acted to preserve U.S. interests in these areas by insisting on the insertion of protective language in U.S. international trade agreements.

For example, the GATT, which dates from 1947 and pertains to trade in goods (rather than services or investment) contains a broadly-framed essential security provision inserted -- and preserved -- at U.S. insistence. It also contains a provision ensuring that governments can take effective measures to ensure consumer protection and conserve natural resources. Similarly, the recently concluded WTO agreement on trade-related aspects of intellectual property rights contains an essential security provision. The WTO technical standards and sanitary and phytosanitary agreements -- which are also agreements governing trade in goods -- contain provisions ensuring that the United States will remain free to set its own levels of protection from environmental and health risks.

The Administration considers it not only appropriate but highly desirable for U.S. trade negotiators to continue the tradition of ensuring that vital U.S. policy and security interests are preserved under the agreements we sign with our trading partners. As a practical matter, the policy objectives identified in section 2(c) have not been limited to negotiations in the investment and services area. Nor should they be.

As with other matters pertaining to fast track trade negotiations, the President identifies relevant objectives and areas of concern in close consultation with relevant congressional committees. The approach of this Administration, and its predecessors, has largely been to preserve discretion for the United States in each of these policy areas. The Administration looks forward to working with the Congress to protect vital national concerns while continuing to eliminate trade barriers and increase market access for U.S. producers and workers.

Question 8

The notice and consultation procedures contained in the Administration's proposal include a requirement to consult in advance of entering into negotiations, not just before concluding an agreement as was the case under prior grants of authority. Will those consultation procedures apply to all trade and investment negotiations?

Answer

Under the 1988 trade act (the legislation establishing the last version of fast track), the President was required to consult with the Ways and Means and Finance committees in advance of initiating bilateral free-trade negotiations. No consultation requirement was imposed for other negotiations subject to the fast track provisions of the act.

Under the President's proposal, the advance consultation requirement would be extended to all negotiations covered by section 3(b) of the bill. That section covers all negotiations toward a trade agreement that the President intends to bring back to the Congress for fast track implementation. Section 6(a) of the proposal waives the advance consultation requirement, however, for certain negotiations that have already been initiated -- such as those with the government of Chile towards a free-trade arrangement -- or that may be commenced while the President's proposal is pending before the Congress. For example, the Administration intends to enter into negotiations shortly on a successor to the recently concluded Information Technology Agreement.

Questions from Senator Hatch

Question 1

I . . . invite some elaboration as to specific Administration intent with regard to the section two provision of its bill, which reads:

> "To seek to ensure that trade and environmental protection are mutually supportive, including the further clarification of the relationship between them."

Answer

The environmental objectives in Principal Negotiating Objective 7 are included to highlight the importance of continuing the ongoing efforts among WTO Parties to make trade liberalization consistent with the optimal use of the world's resources and environmental protection, and to clarify the relationship between trade and environmental policies -- a process that was begun with the creation of a Committee on Environmental Measures and International Trade in the early 1970s and institutionalized by the WTO in 1994 with the creation of the WTO Committee on Trade and Environment (CTE).

Both environmental components of this negotiating objective -- the promotion of "sustainable development" and the aim of making trade and environment "mutually supportive" -- are widely embraced concepts, and have been included in numerous international agreements to which the United States is a party, including the 1992 Rio Declaration on Environment and Development and the NAFTA (both signed and negotiated by President Bush) and the WTO Agreements. Agenda 21, the Plan of Action for the Rio Conference, called upon countries to "strive . . . through relevant multilateral forums, including GATT .. . to make international trade and environmental policies mutually supportive in favour of sustainable development." In creating the WTO Committee on Trade and Environment (CTE), WTO members, at U.S. insistence, committed to promoting sustainable development and the aim of making international trade and environmental policies mutually supportive.

Accordingly, the language of the specific provision quoted in your question sets forth as a U.S. negotiating objective for the WTO that which the United States had previously committed to do and upon which the WTO has already embarked. Reference to the "further clarification" of the relationship between trade and environmental protection is an acknowledgment that this work is already underway.

The Administration intends to pursue this negotiating objective by carefully taking into account the relationship between trade and environment as we formulate negotiating positions and as we participate in the negotiations themselves. We will work to ensure that protectionism in the guise of environmental protection is not countenanced, while at the same time ensuring that trade rules do not threaten our ability -- or that of other governments -- to protect domestic environmental policy interests. We will look for situations where trade liberalization can enhance environmental protection and vice versa. For example, analysis has shown that many **[some?]** agricultural subsidies that distort trade are also bad for the environment. Seeking to reduce or eliminate such subsidies would promote sustainable development. We would work to clarify positive relationships between trade rules and environmental policy objectives, as where, in the CTE, we are promoting a recognition that sound intellectual property regimes in an importing country facilitate rather than hinder the transfer of environmentally beneficial technology. At the same time, in negotiating trade agreements we would take care to ensure that any new rules would not require us to repeal, or forego developing, legitimate environmental laws and regulations in the United States.

We want to be clear that the environmental objectives set out in the President's proposal are not intended to suggest that the Administration seeks to negotiate environmental standards through the WTO, or other trade negotiations. Nor would the objectives lead to legislation changing U.S. environmental standards through fast track procedures. Our interest in pursuing environmental issues through the WTO is, as we and other WTO members stated in creating [?] the CTE: "to coordinate the policies in the field of trade and environment, and this without exceeding the competence of the multilateral trading system, which is limited to trade policies and those trade-related aspects of environmental policies which may result in significant trade effects for its members." (Preamble to Marrakesh Decision on Trade and Environment)

Finally, as the President's proposal makes clear, the Administration will notify Congress before entering into any negotiations to which fast track procedures will apply, will lay out its specific environmental objectives, if any, in advance of initiating negotiations and will consult closely with Congress and our private sector advisors regarding those objectives as well as other aspects of the negotiations throughout the process.

Question 2

My second request for a written response relates to subsection (c) of section 2, which provides the following guidance to negotiators:

> "In pursuing the negotiating objectives described in subsection (b), United States negotiators shall take into account United States domestic objectives including, but not limited to, the protection of health or safety, essential security, environmental, consumer or employment opportunity interests and the law and regulations related thereto."

I note that this language was lifted from the 1988 Omnibus Trade Act, but it pertained *only* to trade in services. Yet, the administration bill applies it to all seven negotiation objective areas. Let me take the example of the application of the environmental considerations to foreign investment.

Does this provision mean that U..S. companies seeking foreign investment opportunities in, say, overseas textile mills, would have to include in their business development plans U.S. environmental standards? More specifically, would the U.S. investor have to ensure, and pay for, U.S. environmental standards as a condition for making a foreign investment? If so, is that not a barrier to foreign investment created by the administration's fast track proposal?

Answer

The provision in question, section 2(c)(1) of the President's proposal, was first included in the Trade and Tariff Act of 1984 and figured in the 1988 trade act as well. In both cases, the language was included at the request of the Senate and applied both to the pertinent services and investment negotiating objectives.

While the provision was previously limited to the context of services and investment, the domestic objectives included in section 2(c)(1) are broadly applicable across the range of trade areas. They reflect vital American concerns and interests and have long served as guideposts for U.S. trade negotiators. Indeed, the United States has repeatedly acted to preserve U.S. interests in these areas by insisting on the insertion of protective language in U.S. international trade agreements.

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As with other matters pertaining to fast track trade negotiations, the President identifies relevant objectives and areas of concern in close consultation with relevant congressional committees. The approach of this Administration, and its predecessors, has largely been to preserve discretion for the United States in each of these policy areas. The Administration looks forward to working with the Congress to protect vital national concerns while continuing to eliminate trade barriers and increase market access for U.S. producers and workers.

Regarding the specific example given -- of a U.S. company investing in a foreign textile mill -- as explained above, the focus of this guidance to negotiators is on protecting U.S. domestic regulatory prerogatives, not on using trade or investment agreements to compel the extension of U.S. domestic environmental laws to other countries.

Question 3

I am further troubled by what has been omitted. Allow me to elaborate.

Despite the use of fast track in past agreements such as NAFTA and the GATT Uruguay Round, I would say unequivocally that we have lost ground in three express areas: anti-dumping, countervailing duties, and Section 301 protections. The Administration's work on steel plate cases is one such example. I am concerned that the Administration has attempted to nullify preliminary determinations made by the Commerce Department and the International Trade Commission by seeking suspension agreements with the offending nations.

Accordingly, I would like [a] written response as to the Administration's intentions regarding the value of U.S. anti-dumping, countervailing duties, and Section 301 rules to our national trade policy. Further I would like to see these three sets of priorities embraced in the listed negotiation objectives.

Answer

[Insert response to Q regarding lost ground on trade laws.]

U.S. interests in maintaining strong trade laws are fully reflected in the President's proposal. First, section 2(c)(2)(B) specifically instructs U.S. negotiators to:

> "take into account the need for the United States to retain the ability to enforce rigorously it trade laws in order to ensure that United States workers, agricultural producers, and firms can compete on fair terms and enjoy the benefits of reciprocal trade concessions."

This language encompasses each of the trade laws mentioned in your statement -- our dumping, countervailing duty, and section 301 provisions. It makes clear that U.S. trade negotiators are to resist any efforts to weaken those laws -- or our ability to enforce them -- through new international agreements or changes in existing texts.

Moreover, two of the proposal's trade negotiating objectives -- set out in sections 2(a)(2) and 2(b)(1) -- call on the President to obtain the reduction or elimination of foreign government barriers that "distort U.S. trade". The Administration considers that those objectives fully cover foreign unfair trade practices, such as unreasonable subsidies, that distort U.S. imports and exports. Indeed, the definition of trade distortion (section 7(a)(2)) specifically includes foreign subsidies.

As you correctly point out, the 1988 fast track legislation urged the President to pursue specific objectives with respect to unfair trade practices. The President acted on those objectives through the negotiation and conclusion of strong, new dumping and subsidies agreements which, today, are applicable on a multilateral basis. Moreover, the Administration further strengthened U.S. unfair trade laws -- specifically in the area of dumping, countervailing duties, and section 301 -- through the Uruguay Round implementing legislation.

The result is that today neither the Administration nor our domestic industry is seeking to initiate further negotiations in the area of unfair trade practices. By contrast, a number of our trading partners would very much like the opportunity to re-start negotiations, for the purpose of cutting back on the protections we gained through the Uruguay Round agreements.

The President's proposal recognizes that today our agenda in this area is largely to maintain our ability to enforce existing U.S. protections vigorously. Since our interest is in avoiding further negotiations, rather than pursuing them, the inclusion of a specific "negotiating objective" on this subject might be misinterpreted. For that reason, Administration considered it more advisable to send a strong message, in the form of guidance to U.S. negotiators, that the United States seeks to maintain its ability to pursue unfair trade practices with vigor.

To: Bob Lyle ASAP

I propose that the bill include as a principle negotiating objective that a country be required to observe core labor standands and have that provision subject to trade sanctions.

We support the thrust of your proposal, but believe your concern is adequately addressed with the Chairman's mark. The Chairman's mark provides the President the full range of tools for addressing his economic agenda in a manner consistent with these American values.

First, no Administration has pushed harder on the issue of the observance of core labor standards. The President is fully committed to this issue, and a country's position on this issue would impact our willingness to engage in comprehensive free trade negotiations with that country. Congress -- and this Committee in particular -- would be a full participant in determining with whom we negotiate as this bill would require, as have past fast track bills, that we consult closely with Congress in connection with such negotiations.

Second, this bill allows the United States to negotiate provisions in trade agreements to ensure that countries do not waive or derogate from existing standards, including their observance of core labor standards. Thus, we could address your concern with the provisions in the Chairman's mark.

Third, the mark recognizes explicitly that the President should pursue the goal of promoting the observance of core labor standards more generally, including multilaterally. Such agreements would not require implementing legislation, and accordingly are not affected by fast track procedures.

Fourth, this mark in no way limits the President ability to pursue these issues as he sees fit using his executive authority. More generally, we believe we are able to make the best progress on these issues when we are engaged with countries, rather than when we are the sidelines. For example, Chile's willingness to address our labor and environmental concerns is directly tied to negotiating a free trade agreement. If we are not engaged on those issues, we will not make progress on any of the issues important to you and us.

Sanctions?

This mark does not preclude the President from using enforcement mechanisms where a country derogates from its existing standards, including labor standards. Of course, the type of enforcement mechanism used will be the subject of negotiation. The Administration would seek to negotiate in the most constructive way possible, recognizing that each country presents unique circumstances which may require different tools. We will, of course, work with Congress during the negotiating process to make sure the agreement reflects America's interests and values.

With Chile, for example, they have agreed to sign labor and environment agreements subject to enforceable civil fines.

What about trade sanctions?

What we are talking about is economic sanctions that will deter a country from gaining a competitve advantage by not adhering to its existing standards or, if they do, nullifying the advantage. What form those take is less relevant than that they achieve their purpose. In the case of Chile, we believe a system of monetary fines, like they agreed to with Canada, achieves our objectives. Other countries may require other approaches; this mark leaves room for other approaches. It must be remembered that this is simply a negotiating objective. How it will be effectuated in anegotiation is a different issue, and one with which we will consult with Congress on regular throughout the process.

What is the status of the countries in the hemisphere with respect to the recognition of core labor standards?

The countries of the hemisphere have a good record with respect to recognition of core labor standards, including ratification of the relevant ILO conventions.

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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.

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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.