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TRADE AND THE ENVIRONMENT

HEARING

BEFORE THE

SUBCOMMITTEE ON INTERNATIONAL TRADE

OF THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

ON

S. 2887

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COMMUNICATIONS

TRADE AND THE ENVIRONMENT

MONDAY, JULY 30, 1990

U.S. SENATE,
SUBCOMMITTEE ON INTERNATIONAL TRADE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 2:30 p.m., in room SD-215, Dirksen Senate Office Building, Hon. Daniel Patrick Moynihan presiding.

Present: Senators Chafee and Heinz.

Also present: Senator Lautenberg.

[The press release announcing the hearing follows:]

[Press Release No. H-44, July 18, 1990]

TRADE SUBCOMMITTEE TO HOLD HEARING ON TRADE AND THE ENVIRONMENT; IMPACT OF ENVIRONMENTAL CONCERNS ON INTERNATIONAL TRADE TO BE FOCUS

WASHINGTON, DC.—Senator Max Baucus (D., Montana), Chairman, announced Wednesday the Subcommittee on International Trade will hold a hearing on the impact of environmental concerns on international trade.

The hearing is scheduled for *Monday, July 30, 1990 at 2:30 p.m.* in Room SD-215 of the Dirksen Senate Office Building.

Baucus said, "With our growing concerns for the environment, we are requiring U.S. companies to meet tougher pollution control standards. These standards may affect the ability of our companies to compete in global markets, particularly against firms that are not required to meet the same high standards. For that reason, I am holding a hearing to explore the relationship between trade and the environment."

"One of the subjects of the hearing will be the Global Environmental Protection and Trade Equity Act, sponsored by Senators Lautenberg, Kasten, Dixon and Pell. I believe that the International Trade Subcommittee's consideration of this bill will help launch a comprehensive discussion of this emerging issue," Baucus said.

The Global Environmental Protection and Trade Equity Act would prohibit designation of a country as a beneficiary under the U.S. Generalized System of Preferences or the Caribbean Basin Initiative unless that country has effective pollution control standards and meets those standards. These requirements would be subject to a waiver. Failure to apply effective pollution control standards would also be considered an unfair trade practice under section 301 of the Trade Act of 1974.

OPENING STATEMENT OF HON. DANIEL PATRICK MOYNIHAN, A U.S. SENATOR FROM NEW YORK

Senator MOYNIHAN. A very good afternoon to our guests and our witnesses. This is a meeting of the Subcommittee on International Trade on the new, but increasingly salient, subject of trade and the environment. We are beginning as we all know to find ourselves negotiating ever more complex international agreements on environmental issues and inevitably these move over into the area of trade as we set standards for production and nonproduction of different types of chemicals and other goods. We certainly want to see

international orders emerge, given the elemental fact that these environmental difficulties are not very much respectful of international boundaries, particularly when we get into the issues of atmospheric change and atmospheric controls.

Senator Lautenberg has an important bill which we are going to hear about in just a moment. He has not arrived yet and so we will take liberty as we want to move on and ask is Mr. Donald Eiss present? Mr. Eiss are you with us? Good afternoon, sir.

Mr. Eiss is the Deputy Assistant U.S. Trade Representative for Industry. We welcome you, sir; and we welcome your statement. We will put your statement in the record as if read. And perhaps you would just summarize it as we expect Senator Lautenberg along any moment now.

[The prepared statement of Senator Moynihan appears in the appendix.]

STATEMENT OF DONALD EISS, DEPUTY ASSISTANT U.S. TRADE REPRESENTATIVE FOR INDUSTRY

Mr. EISS. Thank you, Mr. Chairman. I appreciate the opportunity to appear before you today to express USTR's reaction to S. 2877, the bill recently introduced by Senator Lautenberg to amend the Caribbean Basin Economic Recovery Act, Generalized System of Preferences, and Section 301 of the Trade Act of 1974 with respect to foreign environmental practices.

As you said, I have a formal statement for the record.

Senator MOYNIHAN. Which will be included as if read.

Mr. EISS. Thank you.

The effectiveness of domestic and international environmental standards is of growing concern around the world, as countries turn increasing attention to the risks associated with the wide variety of environmental hazards. The hazards clearly differ from country to country and nations are making their own risk management decisions as to how to deal with the hazards. Nevertheless, governments increasingly recognize the international character of the problems and are acting to put our national responses into a more cohesive international and analytical framework.

Although USTR does not have the statutory responsibility for health, safety or environmental protection and therefore is not equipped to make judgments as to proper levels of protection in such areas, USTR has strongly supported efforts at achieving international consistency whenever appropriate in order to avoid the creation of unnecessary technical barriers to trade.

However, even agencies which do have such authority, such as the Environmental Protection Agency, inform us of the immense complexities involved in judgments on the effectiveness of pollution abatement standards of other countries. Even more difficult are judgments regarding compliance and enforcement of those standards.

This is one reason that we have placed so much emphasis on international cooperation to deal with pollution problems, through such organizations as the United Nations Environmental Program, FAO (Food and Agriculture Administration) and the OECD. Indeed, the OECD is giving particular visibility to this issue consistent with

its longstanding attention to economic implications of environmental concerns.

The final communique of the most recent OECD meeting at the ministerial level noted that improving environmental conditions and promoting sustainable development have become increasingly fundamental objectives. Member countries fully recognize their special responsibility in the international effort to seek solutions to global environmental programs.

Other countries, including those of central and eastern Europe, as well as the developing world, seem increasingly ready to play an active role. The critical importance of environmental cooperation was also a principal conclusion of the Houston Economics Declaration issued by the heads of government of the seven major industrial democracies and the President of the Commission of the European communities.

The declaration stated that cooperation between developed and developing countries is essential to the resolution of global environmental problems.

We believe that the bill under discussion today must be evaluated in the light of these and many other cooperative international initiatives. A premature turn by the United States from this essentially cooperative approach to a more unilateral one as seems to be contemplated in this bill brings to mind a number of immediate issues.

First and foremost is the question of the applicable standard which equates to the effectiveness standard of the bill. For example, in the United States, Federal environmental standards are not always the most stringent. States adopt those standards to reflect the circumstances peculiar to the region in their own risk assessment.

In southern California persistent atmospheric conditions lead to degraded and harmful air quality, and more stringent air quality controls are adopted in southern California than in some other areas of the United States.

We should not conclude that other States or the Federal Government have inadequate standards because they do not mirror California's. Should the conclusion be different simply because the government is that of another nation such as Greenland? To what standards do we hold governments of other nations applying the proposed unilateral tools?

One would have to assume that the standard would be that applied by the United States, since that reflects our collective assessment as to what effective standards should be. However, as I have indicated, there is not even a consensus in the United States with respect to what those standards should be.

Given the current state of flux internationally the adoption of proposals such as contained in this bill would likely have the counterproductive result of detracting from the cooperative development of international environmental standards to which all countries would have a commitment. Adoption of this bill would mark a significant shift from present U.S. policy, which is to seek progress through international consensus based on sound scientific evidence.

If the United States establishes this precedent then other countries may do the same. If the United States were to use the mecha-

nism of our trade laws to attempt to force other nations to come up to a U.S. standard, then could we object if other countries were to do the same?

For example, Japan and the Federal Republic of Germany enforce sulfur dioxide standards more stringent than those in the United States. Other countries have noise and solid waste disposal standards more stringent than U.S. Federal standards. Thus, the United States needs to consider the logical consequences of setting the precedent of using national trade remedies to enforce on other countries unilaterally established levels of environmental protection.

The proposed bill would prevent the President from designating any country from receiving beneficiary status under GSP and CBI that does not have effective pollution abatement and control standards.

Taking this action against nations otherwise eligible for GSP and CBI treatment by removing the financial benefits which they might receive from these programs could actually reduce the ability of such nations to establish the effective pollution and control standards which the bill seeks.

Mr. Chairman, where there are local health and environmental problems in developing countries, it is very dangerous for the United States to impose its judgment as to what constitutes effective levels of protection to the residents and the environment of those sovereign nations. This becomes even more controversial when the situation within the United States is taken into account, and when judgments regarding the adequacy of enforcement abroad are mandated.

Where the pollution is of the sort affecting the global commons, a multilateral solution is required. There are numerous international activities now underway or being considered to deal with such situations. It would be counterproductive to use statutes to promote economic development to impose U.S. determined standards which could prove unnecessarily costly to many countries which are in the process of developing essential infrastructure.

We, therefore, oppose this legislation. The issues posed by this hearing are complex. How we ensure that others join our effort to protect the environment so that U.S. industry is not uniquely burdened is of enormous importance. The issues of how to mesh our desire for environmental protection and for improved U.S. competitiveness deserve further attention and careful analysis.

The USTR, EPA, and other interested elements of the administration will be working on this issue in the weeks and months ahead; and we look forward to further discussions with the committee.

Senator MOYNIHAN. We thank you, sir.

[The prepared statement of Mr. Eiss appears in the appendix.]

Senator MOYNIHAN. Senator Lautenberg has arrived. I wonder if he may be able—we hope he will be able to join us here at the committee bench after his testimony. I wonder if you would be kind enough to stay until he has finished. He may want to ask questions of you.

Mr. EISS. Certainly.

Senator MOYNIHAN. I see that our colleague, the distinguished Senator from Pennsylvania is here. Would you like to make an opening statement?

OPENING STATEMENT OF HON. JOHN HEINZ, A U.S. SENATOR FROM PENNSYLVANIA

Senator HEINZ. Very briefly, Mr. Chairman. I just wanted to say that I am delighted you are holding this hearing on Senator Lautenberg's legislation. It is legislation that I think deserves this kind of scrutiny.

I think it is quite important for us to recognize that this is, if we adopted it, a precedent setting piece of legislation. Because if we apply it to others, others might very well seek to apply it to us. And I think we need to understand how that might work.

Secondly, the legislation itself probably needs some further refinement. As I looked through the bill—at least the first version of the bill, I haven't had a chance to see the second version that was introduced a week or so ago—my understanding is that there are no priority areas of designation. We do not say that protecting land is more important than protecting water or protecting air; and indeed one worry that I would have is that if we just said to the USTR which is not known to be a particular expert in the area of the environment here, you pick and choose what areas are most important to you, Mr. Eiss might be able to do it and then again he might not.

I would not want—I would feel very nervous about asking USTR to do that. And even if they did there is the question as to whether Congress would not be ducking its responsibility to give clear direction as to exactly what we should concentrate on.

Thirdly, there is the question of whether it is wise to unilateralize something that ideally works best when it is multilateralized. If this is a good idea—and in principal I think it is a good idea—to reward nations based on the kind of job they do on behalf of protecting their environment economically through greater or lesser trade access, I think the question of environmental protection is sufficiently critical to our findings on good and sensitive ways to do that.

Nonetheless, it is highly advantageous to get an international multinational commitment to doing that so we are not in a position of trying to do it all by ourselves. In those areas where we have by ourselves attempted to do something, we have a record more often of frustration than of success.

I do not pose these as insurmountable problems. Indeed, many of these same kinds of issues were raised when we first took up the issue of Super 301 in this committee. There were people that said, "Oh, no, that is terrible. You cannot do it under any circumstances." And we worked many of those issues out.

So I am not here to say this cannot be done. But I think a considerable amount of effort is going to be required in order to make it practical and as principled as I think the authors would like it to be.

Senator MOYNIHAN. I think those are very fair comments. This is, indeed, a first hearing on a new subject. We thank you, Mr. Eiss.

We welcome Senator Lautenberg whose initiative brings us here today. May I say I have a statement which I would like to place in the record as if read as well.

STATEMENT OF HON. FRANK R. LAUTENBERG, A U.S. SENATOR FROM NEW JERSEY

Senator LAUTENBERG. Thank you very much, Mr. Chairman. I appreciate the consideration of you and Senator Heinz to seeing that we hold this hearing. I know that it came upon a sleepless night and that you were graceful and willing to take your time to chair this subcommittee hearing. I am grateful to you.

I want to just mention also that Senator Bentsen had made a commitment that he would encourage a hearing on the Global Environment Protection and Trade Equity Act that was introduced by myself and Senators Pell, Kasten, and Dixon.

S. 2887 would encourage environmentally sound, global economic development and help minimize the competitive disadvantage of American companies because of the cost of complying with our environmental law. It links benefits under the Caribbean Basin Initiative and the generalized system of preferences to the adoption and observance of effective natural resource protection and pollution and abatement control standards to protect air, water and land.

It makes the failure to adopt such standards—and these are not our standards; we are asking them to develop a program—an unfair trade practice under Section 301 of the Trade Act, the USTR working with industry, environmental groups and various embassies will determine what an effective generally observed environmental standard is.

These determinations will be made in much the same way we decide for GSP purposes that a country is affording its workers internationally recognized workers' rights. In making such decisions the USTR will have amble guidance from many global conventions designed to address international environmental issues.

This legislation also provides built in flexibility in applying its requirements. Despite a country's failure to enact or observe effective environmental laws, the President may grant CBI status if it is in our national security or our economic interest to do so; and may grant GSP status if he determines it is in the national economic interest. Moreover, the U.S. Trade Representative can refuse to pursue a Section 301 case if the foreign country is trying to establish effective pollution standards of if its existing practices are consistent with its level of economic development.

The legislation has been endorsed by the AFL-CIO, the United Steelworkers of America, the Communications Workers of America, the Sierra Club, the National Wildlife Federation, Green Peace, the Environmental Defense Fund, Friends of the Earth, the Natural Resources Defense Council, and the Development GAP—a nonprofit group concerned with the Caribbean.

Mr. Chairman, a principle goal of S. 2887 is to encourage environmentally sound economic development. Pollution does not honor

national borders. If Americans want to keep breathing clean air, drinking clean water, eating uncontaminated food and enjoying our forests and wildlife we have to exert global leadership on the environment.

The United States by virtue of its trading position in the world can influence whether countries develop in an environmentally sound manner or one that degrades the environment. These choices are not abstract. Foreign pollution has already had a real and devastating impact on American lives. In California pollution from Mexico has fouled an American river, closed down a 2½-mile stretch of beach for almost a decade, and driven away rare birds. It is poisoning a Federally protected 2,500 acre salt-water estuary, and only one of the three in the United States.

Residents nearby have suffered plague-like proportions of cholera, hepatitis, dysentery and other life-threatening diseases. The cause is up to 12 million gallons a day of raw, untreated sewage dumped in Mexico into the Tijuana River which flows into California. And now it is the most polluted river in America. And the distinguished Chairman and I know many polluted rivers. This one is the most polluted.

Senator MOYNIHAN. That is a distinction.

Senator LAUTENBERG. It is an indistinct honor thanks in part to the Mexican behavior in this case. American laws simply cannot help us here. The Tijuana River is just the tip of the iceberg. Up to 25 million gallons a day of raw sewage flows from the Mexican city of Nuevo Laredo into the Rio Grande, which forms the border between Mexico and Texas. Near Mexicali, sewage and industrial waste have severely contaminated the new river which flows from Mexico to California's Salton Sea, a national wildlife refugee.

These cross-border effects of pollution are echoed all across Europe and Asia. Wind blowing from the Soviet Union carries with it almost half the total airborne pollutants found in Finland, giving new meaning to the term "ill wind." The severe pollution in Bitterfeld, East Germany, has not only sickened its own residents and poisoned East Germany's environment but has caused much of the pollution damage in Central and Western Europe.

What one country does to its own environment can also cause permanent, damaging changes to the global environment. According to CRS, the burning and clearing of tropical forests in Southeast Asia, Africa, and Brazil has destroyed much biological diversity of the worlds' habitats. The fires have also contributed to the greenhouse effect and a potential shift in the world's climate.

Some may have concerns about the ability of developing countries to assume the financial burdens of protecting their environment. Certainly there may be considerable short-term costs. But the long-term costs of neglect are even greater. In the United States we learned the hard way about the costs of pollution. EPA estimates it is going to cost us more than $18 billion to clean up just those Superfund hazardous waste sites now on the national priorities list. And we have got to add to that the human cost. Developing countries that are seeking to industrialize cannot afford these same mistakes.

America is helping countries which want to protect their environment. The Support for Eastern European Democracy (SEED)

law will provide $40 million for environmental initiatives in Poland and Hungary. A.I.D. plans to spend $470 million over the next 2 fiscal years in Brazil, Pakistan, the Philippines, Poland, and Zaire, among others, to address global climate change. It is a beginning. But, we need to do more.

We need to include environmental criteria in the GSP, the CBI, and Section 301. Using our trade leverage to achieve important policy goals is something we already do. A country cannot qualify for GSP status if it has expropriated U.S. property, or it has failed to afford internationally worker rights, or served as a terrorist sanctuary. So we have conditions. It cannot receive CBI benefits if it lacks an extradition agreement with the U.S. or pirates U.S. television or movies.

Just this year we approved new legislation requiring CBI recipients to afford such worker rights to their people or to lose their benefits. Under Section 301 it is an unfair trade practice for a country to deny workers the right of association or collective bargaining, to permit forced labor, or to fail to establish standards for minimum wages, work hours, and the occupational health and safety of our workers.

We decided that these national policies were as important as economic development in GSP and CBI countries. Indeed, many of them address the very kind of economic development we want to promote in lesser developed nations—development built on respect of intellectual property and built with the labor of workers whose rights are protected.

We should also seek development that is consistent with environmental protection. And just as cutting costs by exploiting workers is unfair trade under Section 301, so in my view is cutting costs by exploiting the environment.

Experience shows that using our trade laws to achieve important policy goals works. Once GSP was threatened, Indonesia, Singapore, Taiwan, Korea, and Yugoslavia improved their protection of intellectual property rights. The threat of a Super 301 case led Korea to ease conditions for foreign investment and to eliminate import bans and other protective conditions. Taiwan developed an action plan to open markets.

Mr. Chairman, S. 2887 also aims to help level the playing field for American businesses hurt in the marketplace by the cost of environmental compliance. Complying with U.S. environmental laws costs American industry money, while foreign producers build their economic success on the slag heap of an exploited environment.

CRS estimates American industry spends $12 billion a year on pollution compliance. This was for the year 1986. A figure certain to rise as a result of new environmental legislation. That is money our industry cannot use to modernize factories, research, develop new products or promote existing ones. It is money they must recoup by charging higher prices. In short, it is money they spend on protecting our environment, not on improving their competitive position in the world. Though it is money well spent, it leaves less for other things.

When foreign industry subjects its workers and citizens to pollution we require our industries to prevent—then American industry operates at a disadvantage. American industry loses sales because

of higher costs, and American workers lose jobs, when industries move offshore, where the environmental standards are lax. The carrots and sticks in this legislation will help assure that foreign governments which tolerate environmental degradation do not reap economic benefits in our markets. By making the failure to adopt environmental standards an unfair trade practice under Section 301, we are encouraging our trading partners to do their part to protect the environment or pay the consequences.

Mr. Chairman, this bill does not force U.S. standards for clean air, water and land on developing countries. It would allow each country to determine for itself what sort of a pollution code best meets its needs, as long as that code has some effect. Nor does past experience show that this legislation would cause retaliation from countries. We require GSP and CBI beneficiary countries, once again, to respect international workers rights and we define the failure to do so as an unfair trade practice under Section 301. yet none of our trading partners have retaliated against the United States on these grounds.

Just as we have encouraged the adoption of other American values around the globe, we must encourage environmentally sound development. It is time that we put our trade laws to work for us in improving the environment. Because, to paraphrase an old saying, when it comes to the environment, it is a small world after all.

Senator MOYNIHAN. A small world.

Senator LAUTENBERG. Thank you very much.

Senator MOYNIHAN. Thank you, sir. I want to ask one question, then I know that Senator Chafee would have some comments.

For the record, the general system of preferences (GSP) and the CBI (Caribbean Basin Initiative) these provide for concessionary levels of tariffs to the countries that receive them. They do not have to meet the general tariff schedules which other countries in the world must—Britain, France, Germany, and Japan, and so forth. For these countries receiving GSP and CBI benefits, we have taken the initiative in giving them lower and preferential rates. Is that not the case?

Senator LAUTENBERG. That is true.

Senator MOYNIHAN. And if we were to withdraw those concessions they would be treated as any other country. They would not have these special preferences.

Senator LAUTENBERG. It is essentially that.

Senator MOYNIHAN. So there is no prima facie case to be made that we would somehow be violating our obligations by adopting environmental considerations into GSP and CBI.

Senator LAUTENBERG. Right.

Senator MOYNIHAN. And if we had some conditions, such as we do with labor standards, and might with environmental standards, they are free to either opt to abide by them or to just play by the rules which apply to everyone else.

Senator LAUTENBERG. That is true. Senator, one of the things that I think is fairly obvious, and that is, countries that are struggling to raise the standard of living, to improve their economies, are also often the countries that perforce, ignore their environmental needs, or our environmental needs, or the world's environmen-

tal needs. There is the temptation to take the quick, dirty route, if I may suggest, to getting on their feet.

All we want to do is say to them, listen, at the same time you have to pay some attention to the needs of a cleaner environment. And once again, if I might, it doesn't impose the standards that we have developed for ourselves. I do not think that would be reasonable to ask.

All it says is, put a plan into affect that would indicate some control of the degradation of the environment as you search for economic improvement.

The prepared statement of Senator Lautenberg appears in the appendix.]

Senator MOYNIHAN. That seems like a very clear statement.

Senator Chafee?

STATEMENT OF HON. JOHN H. CHAFEE, A U.S. SENATOR FROM RHODE ISLAND

Senator CHAFEE. Thank you, Mr. Chairman. I want to thank Senator Lautenberg for his proposal. It is an interesting proposal and I think worthy of consideration, however, I am not exactly sure of how we wrestle with some of the definitions. In other words, as I understand it, these countries have to put in effective natural resources protection and effective pollution abatement and control standards; and these standards have to be generally observed.

I presume that these definitions of these terms would give us a lot of problems. The Chairman was mentioning the GSP, that if we did not give GSP we would just be putting people back where they ordinarily would be. In other words, GSP is as the terms say, a generalized system of preferences, although it is important to recognize that just like the term "most-favored nation" to be on the nonmost favored nation list is to be a pirahhea. Practically one of the few countries in the world.

And so it is with not being on a GSP list. I believe practically every developing country in the world is on our GSP list. So when you take a country off, you are not taking them off some preferred list, you are putting them into a very unusual situation.

Of course, we also have the problem of addressing this unilaterally as opposed to multi-laterally. Now the distinguished witness and the rest of us on the Environment Committee have taken the position certainly as far as CFC's go that we are willing to go it alone. Although, in all fairness, we were not totally going it alone in that category because there was the Montreal protocol and we went much further than the protocol, leading up to the London agreement 2 weeks ago.

Nonetheless, it could be argued we went alone to a considerable degree. So those are matters that we just have to consider and I think it is a very thoughtful presentation and suggestion from Senator Lautenberg. I think the witness is absolutely right, it is the countries that are struggling to get a piece of the pie that are willing to put aside even the most basic environmental concerns.

As Senator Lautenberg mentioned, we are not asking them to be like us, we are asking them to have some kind of a plan and try to

follow it. It is a good suggestion and I hope we will fully consider this legislation.

Senator MOYNIHAN. We made the point that this is a first hearing on a new subject. I remarked earlier that we may want to think of some international organization along the lines of the GATT that could discuss what are comparable environmental standards. A GATT for the environment, so to speak.

Senator Lautenberg, we are very grateful to you for opening this discussion and we would be even more pleased if you could join us as we hear our next panel.

Senator LAUTENBERG. That is very kind, Mr. Chairman. Senator Chafee's comments do raise that kind of questions, thoughtful questions. Oddly enough, the three of us serve on the Environment Committee as well as gathering here today. We do take into account whether or not a country has fallen prey to communism, whether or not a country even with GSP treats its workers reasonably well.

And the standards are often subjective. We leave it to the President of the USTR in many cases to make the adjudication; and I subscribe to that. But I think—and knowing the environment record of each one of you and the shared concerns that we so often have together in our Environmental Committee—tells me that we have to search for is a way to kind of put a pebble in the shoe and say, "Listen, as you develop, as you think about things, do not destroy those forests, do not dump raw sewage."

And if they come up with a program that shows that they are thinking about it, that they are going to do something about it, I say let's encourage them. But I think that if it is understood by these countries and by the world at large that the United States is taking a leadership role in this, I think it is going to be a very important factor in the way our environment develops in the future.

Senator MOYNIHAN. Very nicely said. Sir, if you have a moment we would appreciate your joining us.

Senator LAUTENBERG. Thank you very much. I will.

Senator MOYNIHAN. We are now going to hear from a panel that will consist of Mr. William Cunningham, Legislative Representative of the AFL-CIO; Mr. William Corcoran, who is Director for Public Affairs for Allied-Signal, Incorporated; and Mr. James Barnes, who is Senior Attorney of the Friends of the Earth.

Senator CHAFEE. Mr. Chairman, could I ask you a question while they are getting assembled? Do you know or does anyone know whether under the provision dealing with labor practices—and I am not sure where we had that—where did we have that language?

Senator MOYNIHAN. In the CBI.

Senator CHAFEE. In CBI?

Senator MOYNIHAN. Sure.

Senator CHAFEE. They must observe some standards and I was wondering whether anything has ever happened under those provisions. In other words, has somebody said, "Are you, Country 'X' using child labor?"

Senator MOYNIHAN. Maybe Mr. Cunningham can speak to us. We have in the case of the labor provisions the oldest set of international agreements of these kind, which are the International Labor Conventions of the International Labor Organization, going back to

1919. The first meeting was here in Washington in 1919 when the first international labor treaties were agreed to, the first set. It is a very comprehensive set. It is a fact that the United States is almost alone in how few we have ratified. Although we have ratified three in the past 2 years, picking up after a third of a century.

Senator CHAFEE. I thought we had that provision in something beside the CBI.

Senator MOYNIHAN. Yes.

Mr. CUNNINGHAM. It is in GSP, Senator Chafee.

Senator CHAFEE. It is in the GSP?

Mr. CUNNINGHAM. Right. And there is an annual determination in which people can participate in providing information about violations of workers' rights so that the annual renewal of GSP can be determined.

To my knowledge, and I determine to USTR, there has been recently——

Senator MOYNIHAN. Why don't we ask the USTR about that. Mr. Eiss? It is in Section 301 as well.

Mr. EISS. The provisions with respect to workers' rights which are in the GSP program and the statute are reviewed on an annual basis and through the public process of annual petitions interested parties are able to raise concerns about the worker rights practices in various countries.

Now I am not totally current. But I do know there have been reviews and pending suspensions of GSP with respect to a number of countries. If you just wait one second, I can get some of the specific countries.

Senator MOYNIHAN. Good. That would be very thoughtful of you. I will tell you, Mr. Eiss, why don't you get your material together and we will go ahead with our panel. If you are not really ready you can submit it as part of the record. We would like to have it. I think we would like to give you a couple of days to put it together actually as it is a matter of real interest.

[The information requested follows:]

EXPERIENCE UNDER THE WORKER RIGHTS PROVISIONS OF THE GENERALIZED SYSTEM OF PREFERENCES

Question. Describe the review process and the statutory provisions regarding worker rights?

Answer. The 1984 Trade and Tariff Act amended the GSP law by adding the worker rights criteria, which states that in order to be designated as a GSP beneficiary, a country must have "taken or be taking steps to afford internationally recognized worker rights." The law defines these standards as the right to associate and to organize and bargain collectively, a prohibition on forced labor, a minimum age for employment of children and acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health.

During Annual and General reviews conducted in 1985-89, the worker rights practices of 20 countries have been reviewed at least once. As a result, seven countries (Burma, Chile, Liberia, Paraguay, the Central African Republic, Nicaragua and Romania) have been removed or suspended from the GSP program.

GSP regulations permit any interested party to petition the GSP Subcommittee each June 1 for modifications to the list of products or countries eligible for GSP treatment, including requests to determine if a beneficiary meets the laws worker rights standard. Petitions accepted in each annual review are subject to public hearings and a full review by the major government trade agencies. Modifications resulting from annual reviews are implemented by executive order and go into effect on July 1 of the following year.

As part of the 1990 Annual Review, worker rights reviews have been initiated concerning three beneficiaries: Bangladesh, El Salvador, and Sudan. Reviews of Benin, Dominican Republic, Haiti, Nepal, and Syria are being continued from 1989.

INTELLECTUAL PROPERTY RIGHTS IN INDONESIA

The United States has consulted extensively with Indonesia on intellectual property rights (IPR) issues, including in the context of the U.S. GSP program.

The United States raised IPR issues in the 1985 GSP General Review. In addition, in 1986 the United States accepted a petition under the GSP Annual Review from the International Intellectual Property Alliance to review Indonesia's beneficiary status. In November 1987, the President determined that Indonesia should retain its GSP benefits based on progress in improving IPR protection.

Indonesia's decision to improve IPR protection no doubt was influenced by strong U.S. concerns in this area. However, because consultations were not limited to the GSP context, it is not possible to determine how important GSP benefits were to Indonesia.

The more recent GSP experience with Thailand, for example, has not resolved our IPR problems. Thailand, whose GSP benefits in 1989 were eight times as large as Indonesia's, was the subject of two GSP petitions filed in 1987 alleging inadequate protection for patents and copyrights. After nearly 2 years of review and extensive consultations with Thailand, the President decided that Thailand did not provide adequate and effective protection for patents and copyrights and consequently reduced Thailand's GSP benefits. Thailand still does not provide a satisfactory level of patent and copyright protection.

BACKGROUND

Progress first took place on *copyright* issues, which were raised during then-President Reagan's meeting with President Soeharto in Bali in 1986. As a result of this and other discussions, President Soeharto signed a decree in July 1986 creating a team to study Indonesian intellectual property protection.

In September 1987 Indonesia enacted amendments to its copyright law that largely brought it into conformity with international standards except for overly broad compulsory licensing provisions. Subsequent regulations satisfactorily narrowed the potential use of such licensing, allowing Ambassador Hills and Foreign Minister Alatas to sign a bilateral copyright agreement in March 1989.

Piracy continues, however, to be a major problem with respect to computer software and motion pictures.

The United states worked closely with a generally cooperative Indonesian government to ensure enactment of a satisfactory patent law. The new law, which was enacted November 2, 1989, will come into effect August 1, 1991.

The new law addresses a top USG concern, product patent protection for pharmaceuticals, but important deficiencies remain. For example, significant areas of technology (microorganisms, plants, and food and beverages) are excluded from patentability, compulsory licenses are available for non-working of a patent, and the term of protection is 14 years from filing the application for the patent. Perhaps the most serious flaw in the act is a provision that allows for the legal importation of infringing products.

Based on comments by Indonesian officials that they may seek to address our concerns through implementing regulations currently being drafted, the U.S. Patent and Trademark Office has identified provisions of the law that can be corrected by this means.

Indonesia is reviewing possible amendments to improve its *trademark* law, and has requested advice from the U.S. Patent and Trademark Office.

Senator MOYNIHAN. Mr. Cunningham, good afternoon, sir.

STATEMENT OF WILLIAM J. CUNNINGHAM, LEGISLATIVE REPRESENTATIVE, AFL-CIO, WASHINGTON, DC

Mr. CUNNINGHAM. Thank you very much. Mr. Chairman, the AFL-CIO appreciates the opportunity to testify on behalf of Senator Lautenberg's legislation, S. 2877, the Global Environmental Protection and Trade Equity Act. The AFL-CIO has worked on many environmental issues with Senator Lautenberg, and his lead-

ership in this area is well known. He is aware of the need to balance environmental concerns with economic and employment impact of proposed environmental changes. His sensitivity to this complex legitimate objectives, that are sometimes in conflict, has been the reason for the AFL-CIO's support of his many efforts.

S. 2877 represents a major effort to include environmental conditions in trade legislation. It deserves this committee's detailed study and action.

As members of the committee know the AFL-CIO strongly believes that it is the responsibility of our government to use its trade statutes to insure fair trade, to develop and administer programs that minimize any adverse effects resulting from international trade. Our support for the vigorous enforcement of existing trade remedy laws—including countervail, anti-dumping, 201 and 301—indicate our commitment to an aggressive trade policy in which our government intervenes on behalf of American workers and industry.

On the other hand, the AFL-CIO has been traditionally concerned with the plight of workers overseas. Through U.S. legislation and international forums we have pressed for the identification of "internationally recognized workers rights" as a condition for a truly open and fair trading system.

In domestic legislation we have worked to improve trade legislation by including workers rights as a condition of GSP and OPIC eligibility and by defining the denial of such rights as an unreasonable trade practice under Section 301 in the 1988 trade legislation. The basis for this activity is our strongly held view that the exploitation of foreign workers through a prohibition on unions or a maintenance of unsafe working conditions constitute an unfair trade practice. This, the unfair trade advantage, thus derived is on a par with products that are made with government subsidies, or illegally dumped in the United States.

Senator Lautenberg's legislation builds on existing trade law. It is his view and ours that products made in an environmentally unsafe manner constitutes an unfair trade practice. Most importantly, it undermines the health of workers and their community, and unfairly reduces the cost of production which does not have to meet any environmental standards.

Let me just give you one recent example. According to an article in the L.A. Times on May 14 furniture manufacturers have been leaving southern California and setting up production in Tijuana, in order to escape tough environmental rules imposed in 1988. These rules concerned the use of solvent-based paints, stains and lacquers. By moving to Mexico from California they not only avoided the new tougher environmental laws, but also avoided paying workmen's compensation which at that time was 19 cents on each dollar paid of gross wages.

The tragic irony of this is obvious. The pollution that California sought to eliminate remains. It merely originates a few miles away across the border. Workers in the United States have lost their jobs. Mexican workers are now endangered by the absence of effective health and safety regulations.

On a far larger scale, the Federal Clean Air Act that is currently being considered by Congress and is in conference will impose more

wide-ranging costs on domestic producers and may generate even more transfers of production. The solution is not to lessen efforts to reduce pollution, but recognize that such efforts may produce related problems that must be addressed.

This problem is not one that only affects foreign workers and the loss of U.S. workers jobs, it can affect the health of Americans. As Senator Lautenberg pointed out by a number of examples that he gave, and a study that the AFL-CIO has done on the Maquilladora plants, environmental damage that basically comes across the U.S. border affects U.S. citizens as well as Mexican citizens.

S. 2887——

Senator MOYNIHAN. We will place into the record the account of the Maquilladora plants in Tijuana.

[The information appears in the appendix.]

Mr. CUNNINGHAM. Thank you, Mr. Chairman.

Let me just skip down because we all know the content of Senator Lautenberg's legislation.

As with all new proposals there are some problems. There are presently as USTR pointed out no agreed upon international environmental standards. This is, indeed, a problem. I disagree with USTR though on the fact that the recent Houston meeting has elevated environmental concerns so they will be a primary concern in our trade negotiations. I think my interpretation of what went on in Houston is that they papered over the environmental area, said some nice things about it. The view that we can handle an issue as complex as environmental issues in a GATT Round I think is suspect.

I think in that area you might look at the lack of efficacy we have had in introducing workers rights in this GATT Round. As I remember the issue on workers rights, the United States has tabled a proposal, but for the first time in GATT history there has not been a group convened to discuss this proposal.

Senator MOYNIHAN. Oh really?

Mr. CUNNINGHAM. Because all of our trading partners figure this is not an issue that they really want to be involved in. So I think the environmental issue might suffer the same fate. That is my fear if it basically raised at an international level.

There is one other consideration and I see my time is running out.

Senator MOYNIHAN. Please finish, Mr. Cunningham.

Mr. CUNNINGHAM. There is one other consideration I had. As was mentioned we have a GSP procedure right now whereby we can look at workers rights and on an annual basis evaluate whether or not we should have GSP benefits given to a country. As was pointed out by the Chairman GSP benefits are outside of the purview of GATT because they are additional benefits provided. But there is a serious question about how effective this process is.

What I am looking at here is an issue of suppose we wanted to apply—a sanction. I know Senator Moynihan you are very involved in the Burmese case which is still in conference—but suppose we found out that Congress wanted to basically remove GSP from Burma and the Executive Branch did not do anything.

Senator MOYNIHAN. Which we want to do.

Mr. CUNNINGHAM. Yes, I understand that; and we worked very hard with you on that.

But the question should be: Should the Congress be able to take action like that? And you remember in the mini-trade conference which is going on now, there is a procedure for MFN, which basically corrects the Chata decision, which basically gives the Congress with two Houses voting on the same proposal the ability to remove MFN on an expedited basis.

As we move through this process we should probably think about, when we do develop the standards, Congress having the ability in both houses to basically move on its own action should the administration not want to move.

In conclusion, Mr. Chairman, the AFL-CIO supports Senator Lautenberg's legislation as a necessary beginning in identifying unsafe environmental practices as unfair trade practices. We are willing to work with this committee, and the Senator, and yourselves in developing a feasible approach.

Thank you, Mr. Chairman.

Senator MOYNIHAN. We thank you very much, sir. We will get back to questions after we have heard from the panel.

[The prepared statement of Mr. Cunningham appears in the appendix.]

Senator MOYNIHAN. Mr. Corcoran, I believe we have not heard you before before this committee. So we welcome you to the committee and we look forward to your testimony.

STATEMENT OF WILLIAM M. CORCORAN, DIRECTOR, PUBLIC AFFAIRS, ENGINEERED MATERIALS SECTION, ALLIED-SIGNAL, INC., MORRISTOWN, NJ

Mr. CORCORAN. Thank you, Mr. Chairman. With your permission I would like to submit my statement for the record.

Senator MOYNIHAN. That will be included as if read.

Mr. CORCORAN. And summarize my comments in the time given. Senator Lautenberg, with your permission my comments are going to go to S. 2553. We have not had the chance yet to review your latest draft, S. 2887. But I think our comments will be similar. We want to thank you for taking the time to focus the debate in Congress on this very important issue of environmental controls and competitiveness. We think it is a key issue that we are going to face in this decade and we think that your legislation is a very good place to begin the debate and the discussion. We thank you for doing that.

Mr. Chairman, I am William Corcoran, the director of public affairs for Allied-Signal's Engineered Material Sector. Allied-Signal is headquartered in Morristown, NJ. We have approximately $113,000 employees. We are operating in some 500 plants in about 45 countries around the world. But the sector that I am involved in, the engineered materials sector, is primarily a domestic manufacturer. We operate 39 plants. Approximately 80 percent of those are located in the United States.

This issue that is raised by this committee—competitiveness and jobs—is a very important one to our Sector. I would like to state the question that you are addressing a little bit differently. The

way we look at it is: How do you use the clout of a $3 trillion U.S. economy to raise environmental standards around the world? This is really the question that this legislation addresses.

We have a particular issue that I want to speak to today and Senator Chafee has already raised the CFC issue. And, Senator Moynihan, in your opening statement, I think you really hit it right on the nose when you talked about atmospheric issues that we are now addressing, as well as other issues such as those affecting the ocean which require cooperation among nations. We are now entering a period when the U.S. Congress and the administration are taking leadership positions in the world in new areas. We are looking at global issues and we are targeting new kinds of regulations on U.S. industries to address what are really global issues.

I want to talk to one of those today, ozone depletion, which Senator Chafee raised earlier. As you Senators know from your service on the Environmental Committee Allied-Signal is a producer of CFC, the second largest producer in the world, and we have called for a phase out of CFC's by the year 2000—a 100 percent phase out of CFC's by the year 2000. We called for that before the recent meeting in London and we have agreed to phase out of those products with or without that international agreement.

As part of the Clean Air Act that is currently in conference the Congress has decided to address the issue of the HCFC's also. HCFC's are a new generation of chemicals to replace the CFC's, but they still contain chlorine, so have some ozone depletion potential associated with them. What I think is an unprecedented situation is that these are not even on the market yet, we have agreed that the life of these products should be limited. The Clean Air bills of the House and Senate have a date of, I think, 2015 or 2020 as a limitation on the life time of these chemicals and they serve pretty critical needs in society in terms of refrigeration, insulation, cleaning of electronic products.

What we have done is we have decided to build a plant, the first greenfield plant of its kind in the world, to produce CFC substitutes in Geismar, LA. This substitute is going to be used in solvent, cleaning and insulation. Its chemical name is HCFC 141-B. I could never tell you what that means, Senator.

But we are sizing that plant, and building that plant, with the idea of a 2015 lifetime associated with it. No other country around the world has gotten on that band wagon. The Montreal protocol, as Senator Chafee said, was amended in London last month, in June. It addressed HCFC's only in saying that it would be the goal of the nation's of the world to phase them out sometime in the middle of the next century. Well, obviously, U.S. legislation is going to go well beyond that.

Here is the critical situation we face. We are building a plant in Geismar, LA, based on the regulations coming out of the clean air bill. Our competitors in other countries around the world have no such problems. They are building a plant that will service the U.S. market, will service their own markets—either in Europe or the Far East—and eventually service the markets in the lesser developed world. They are building larger plants than we are going to build. They will be able to recoup their costs over a much longer period of time; and, therefore, have a much lower unit cost.

We have asked for some relief from the Clean Air Act to protect these investments and I think Senator Chafee and Senator Lautenberg have received our paper. Senator Moynihan, I am not sure you have. But we basically asked for a certain amount of protection for U.S. investments, unless the rest of the world goes along.

Let me just say—my light is coming on so I want to make a couple other just general comments.

Senator MOYNIHAN. Finish your testimony, Mr. Corcoran.

Mr. CORCORAN. The most direct approach, of course, to this whole issue is to try to establish greater harmonization of environmental requirements on an international basis with agreed on trade sanctions such as those contained in the Montreal protocol. However, this may not be enough. It is logical for this committee to explore how to effectively use access to American markets as a lever to encourage other countries to upgrade their environmental requirements.

This bill would encourage the adoption of environmentally sound growth policies in some of our closest neighboring countries. The consequences of which would benefit both our people and their own. Also the bill represents progress toward a recognition of the fundamental relationship between U.S. leadership in protecting the environment and corresponding impact on U.S. industrial competitiveness and jobs.

I think everybody has spoken so far about the comments directly in the bill. But one comment I would like to make is that, although I am no expert on international trade, per se, I understand the President is considering whether or not certain countries around the world should receive greater preferences such as duty-free access to U.S. markets when they adhere to international norms such as basic worker rights, and compensation for exappropriation of property.

It seems to us at Allied-Signal that sound environmental practices should take their place along side such standards provided that Congress can work out a way to properly define the standards we expect developing countries to meet. This country is pursuing at the same time the twin goals of tougher environmental restrictions and liberalization of trade, including vast new bilateral and multilateral free trade agreements.

Such trade agreements include negotiation with Mexico to enter a free trade agreement, the implementation of our agreement with the Canadians, the potential expansion of free-trade zones to Central and South America and the recurrent discussions of similar trade agreements with Asian countries. And, of course, the completion of the Uruguay Round.

We cannot afford to ignore the competitiveness consequences of vastly different environmental costs among our trading partners.

Mr. Chairman, this really summarizes my testimony. I appreciate the opportunity to be here with you today. We want to especially thank Senator Lautenberg for his leadership and in arranging for us to be here today. We feel very strongly about this issue. You are going down the right track and this is an important thing to be exploring.

Thank you very much for your attention.

Senator MOYNIHAN. Thank you, Mr. Corcoran.

[The prepared statement of Mr. Corcoran appears in the appendix.]

Senator MOYNIHAN. Mr. Barnes, representing the Friends of the Earth who are friends of this committee.

STATEMENT OF JAMES BARNES, SENIOR ATTORNEY, FRIENDS OF THE EARTH, WASHINGTON, DC

Mr. BARNES. Thank you, sir. We appreciate the opportunity also to testify today in support of the Global Environmental Protection and Trade Equity Act. We commend Senator Lautenberg and his co-sponsors, Senators K[illegible]ten and Dixon, for their foresight and their initiative in introducing this legislation.

Basically we see this as filling a large gap and it has a lot of implications that may be a little difficult to see right at the moment. But I want to focus a little bit on where we are going, and the thing which is not the focus of this hearing, which is the 1992 conference, the anniversary of Stockholm—the 20th anniversary of the Stockholm.

Senator MOYNIHAN. Oh, yes; that is right.

Mr. BARNES. Which will take place in Brazil in 1992. The administration is trying as we talk to get its act together, to get its position together in preparing for this important conference. In fact, a team is taking off today and tomorrow for Nairobi where this will be a principal topic for the next several weeks after the governing council meeting at UNEP. And there is a series of perpetuary meetings starting in March of next year. There will be three of these, leading up to the big meeting in 1992.

One of the ways to look at that event in 1992 is to ask, what do we want to see for the next 20 years ahead in terms of international institutions, international mechanisms, international rules and so forth. I would suggest that this legislation here lays a very welcome foundation along that path. There is a lot of work to do in that context. But we are going to be looking for outputs, obviously, for 1992 and asking ourselves as a group of countries what new treaties, for example—i.e. international standards—are we going to want about land-base sources of pollutions. All different kinds of topics.

This is an area where I think the general public is not very well informed at the present time and I do not honestly think a lot of members of Congress and the administration have really thought very deeply as yet about what is to be extracted from this very important negotiation.

Senator MOYNIHAN. A good point.

Mr. BARNES. It is actually a big negotiation. It will be an enormous circus, but there are some very important things that can be obtained from it.

Regarding this legislation that we have before us, we would see this as correcting one of the principal deficiencies in our existing trade laws, which is generally the lack of attention given to environmental problems besetting most nations in the world.

I think we all saw in the Washington Post just a few weeks back the horrific stories about what happened in Eastern Europe over the last 20 or 30 years. And similar kinds of debacles are evident to

anybody who ventures outside of the United States. Of course, we have our own debacles in this country to worry about, but there are some astounding things that you see when you start traveling in various countries.

This kind of leadership position that Senator Lautenberg is trying to promote I think is most welcome. We could like to suggest that our GATT negotiators, for example, pick up and be really thoughtfully aggressive, I would put it, in figuring out how to promote these general ideas in the GATT context. Now I share some of the concerns that were voice earlier about whether in fact we could expect to get a lot out of the GATT context the way that it currently functions. But maybe that is the result of the lack of leadership over the prior years.

In other words, nobody has tried to use the GATT frame work, the GATT context in this particular way before. And as we all know, it requires leadership from at least one or two countries and probably more than that. But certainly one or two countries have to take the lead—dip their oar into the water first.

So I hope our negotiators as they continue along this GATT Round can do something they haven't done before which is to really be aggressive in thinking how to promote environmental standards in the trade relationships that we have. There is the tremendous volume of trade. According to our calculations at Friends of the Earth, in 1987 the total volume of world trade was more than $6 trillion. That is a lot of activity and obviously it has a lot of environmental significance if one wanted to start looking into it.

The point was made earlier about how we need to develop international standards and the question of what standards this legislation would actually require. As I read the legislation and as Senator Lautenberg said earlier, it does not require U.S. standards.

On the other hand, I think it is evident that there will be ample opportunity for the United States to use its standards where our standards are excellent to try to encourage other countries to have standards similar to those standards. But there is a lot of flexibility in the law and I think that is very appropriate—different countries have very different ways of approaching particular issues and indeed their resources are obviously very different.

Now that gets me to the question of AID, another very important topic that Friends of the Earth is deeply involved in. We have had a lot of involvement in the SEED Act for Eastern Europe, for example. We do a lot of work regarding the World Bank and other development banks and the AID programs of the United States in general. And I think one overview I would derive from that experience is that in general AID, whether it is bi-lateral aid or multilateral aid, is not really looking at the deep underpinnings of what ends up creating sustainable development.

So we find in case after case that the natural resource base of a particular country is being rapidly depleted for short-term gains. I think our AID policies as they are generated both bi-laterally through AID and other institutions and multi-laterally through the World Bank and the other regional development banks could be much deeper in their ecological underpinning. In other words, we can do a lot more with our AID lever to promote and to give the

resources of these countries that they need to have the right kind of pollution controls and the right kind of natural resources laws.

I wanted to say one thing about the GATT negotiations, again coming back to that, if I could take a couple extra minutes here beyond the red light.

Senator MOYNIHAN. Please, Mr. Barnes.

Mr. BARNES. In general, environmental organizations and I think Senator Lautenberg named all the ones that are supporting formally this legislation which covers most of the major groups in the country, we do not feel like we are being given much of a chance to be involved in the GATT negotiations. The way it looks to us is participation is restricted to large corporations and trade associations.

Maybe that is partly our fault. Maybe we have not tried hard enough. But it looks like kind of a closed ball game there and we would like to have that ball game opened up. As I said, we would like to see some real leadership coming from our U.S. GATT negotiators to be sensitive to these long-term ecological and environmental problems.

There have been concerns raised by a number of environmental groups that a new GATT agreement might preclude a nation from having strong environmental requirements. And again, we hope that this legislation sends a signal to alleviate that, that we may down the road a little bit have some more precise suggestions about how the legislation could clarify that situation. We would hate to see a situation evolve where a country tried to be a leader on its on turf, its own terrain, in setting strong standards and then was hauled into the GATT process for having some kind of unfair trade practice. We certainly want to avoid that.

In short, we strongly support this legislation. We hope that it can be acted on swiftly and we look forward to working with the Senators and the administration to working out a good piece of legislation.

Thank you.

Senator MOYNIHAN. We thank you, Mr. Barnes.

[The prepared statement of Mr. Barnes appears in the appendix.]

Senator MOYNIHAN. I would just like to reinforce your statement about the economic development with a sound ecological base. For 40 years the United States has been in an AID program in Nepal and the Peace Corps and the whole panoply of efforts. And it has all come to nothing because they cut down the underbrush on the high slopes on the Himalayas. They are denuded. They have swept down into Bangladesh. A new island has appeared in the Bay of Bengal and you will never get that soil back up on the Himalayas again.

If the only thing we had done was to persuade people not to cut down, for firewood, those little seemingly inconsequential brushes, we would have done all the good that was doable. Now the damage cannot be undone.

Mr. Barnes also mentioned domestic debacles. I would be remiss in my duties as a New Yorker to have a representative of Allied-Signal before us and not mention Onondaga Lake. Allied-Signal is a merger of Allied-Chemical which for almost a century operated a soda ash complex at Onondaga Lake.

You, sir—not you, but your predecessors———

Mr. CORCORAN. Thank you.

Senator MOYNIHAN [continuing]. Filled Onondaga Lake—displaced 40 percent of the water of the Lake, the volume, with the muck from that plant. You used to produce 1 ton of gunk for every two tons of soda ash and the gunk went into the lake. And when there wasn't anymore room for it you just left down. Really, you just got up and left town, and said, "The plant is all yours, Mr. Mayor." And about 25 pounds of mercury a day would go into the lake. You would add about 3 feet of gunk every year. Not quite 3 feet every year. Three to 4 inches every year. It is now 30 feet deep. It is the largest toxic site in America—is Onondaga Lake—and we very much welcome—nothing to do with you, Mr. Corcoran—we very much welcome Allied-Signals interest in improving the environment around the world, but we wish you would come back to Syracuse and remember you were there 100 years and tell me you have raised that issue in Morristown. Will you?

Mr. CORCORAN. Yes, sir; I will.

Senator MOYNIHAN. There you are. Thank you very much.

Senator Lautenberg?

Senator LAUTENBERG. Thank you very much, Mr. Chairman. I appreciate it very much that you would permit me to join you in this hearing. It is an unusual courtesy and I am grateful to you.

I may say I know Allied very well. It is fair to say Allied is a friend of mine. Allied and its management have been very responsive to the environmental degradation that could be caused by the industry that they are in, the products that have been a long time a part of their array and have been very, very forthright in preemptive steps to eliminate problems that they have become aware of.

Senator MOYNIHAN. We heard that in Mr. Corcoran's testimony about the new plant in Louisiana.

Senator LAUTENBERG. Well there was also a permitted ocean dumping of acid and Allied jumped to it and discontinued the practice before they were legally obliged to do so in order to be responsive. And so it has been on the HCFC's and the CFC's. You are right.

I mean there have lots of problems created in the past by lots of companies that particularly in my part of the country, Senator Moynihan, where so much was dependent on industry, industrial chemicals, textile dying, the discharge of raw effluent into rivers. As a matter of fact, it was an invitation to many companies, come here and you can dump your effluent out. You will have a place. You do not have to carry it.

So those were the rules and thank goodness we have awakened to this problem and that is part of what we are discussing today.

Senator MOYNIHAN. Exactly.

Senator LAUTENBERG. I would like to ask Mr. Barnes—by the way, Mr. Chairman, to correct the record, there is only one bill. It is S. 2887; it started out as S. 2553. Mr. Cunningham had a transposition or some similar arithmetic or numerical misplacement.

Senator MOYNIHAN. One bill.

Senator LAUTENBERG. So it all comes down S. 2887, just so that we do not think there are other options, at least in my introduction. There may be many as this bill wends its way.

Mr. Barnes, it has been said that there are other ways to deal with these problems and to achieve the environmental cooperation that is needed in our trade laws. Are you aware of other ways without the United States becoming the world environmental court, which is not likely to happen based on our own record?

Mr. BARNES. Well I think there is a variety of multi-lateral forums, you could call them, that could be and as we see are increasingly being utilized. I mean the Montreal protocol is obviously the best and obviously the latest example of a group of countries acting on their own intelligence and the information that is available and taking some dramatic steps.

But normally the process of negotiating international agreements is a very slow and arduous one. You have the least common denominator affect frequently dragging, you know, the rate of progress down. And I think in the context in which we are talking about right now, it is important that some countries—I would like to see more than just the United States—taking steps such as you have outlined in your bill, and then translating that into multilateral forms as quickly as possible.

But it is a very good tool, I think. It is the tool for informing ourselves, first of all, of what needs to be done and gearing ourselves up as a society, as a country, to do that. But the alternatives are, I think, much longer term in general.

Senator LAUTENBERG. In fact we heard my colleagues on the panel describe this as an interesting forward step, kind of a beginning step, and perhaps we can accelerate action in other areas by moving with this. This is the one place that we can be, relatively speaking, unilateral and at the same time I think deal fairly with these countries that we would like to help without throwing ourselves, into, as I call it, the ill wind.

I wanted to ask Mr. Eiss a question. Mr. Chairman, would it be all right if we ask Mr. Eiss to the panel?

Senator CHAFEE. Mr. Eiss, why don't you step right up here, sir?

Senator LAUTENBERG. I know that your area of interest or your area of commitment is in the trade area, and included in the things that you have to think about, obviously, is what is American industry's position vis-a-vis other country's companies and their affect on jobs here, imports, et cetera.

Do you think that American industry can be or is likely to be disadvantaged by stringent environmental requirements here that are not asked for in other countries or are we already on a level playing field when it comes to the environmental issue?

Mr. EISS. Mr. Senator, I think it is probably fair to say that there is little in the way of a level playing field with respect to the environment today, largely because it is difficult, if not impossible, to determine what that field is against to determine whether you are above or below the line.

I think that is one of the concerns we have in testifying here today. We have had some discussion here, for example, the international labor rights standards and the fact that under current law we are able to make an evaluation, and that in and of itself in-

volves some subjective judgments. But there are certain core elements with regard to those judgments which have emerged internationally over 30 or 40 years of consideration of the government policies which should apply to workers.

And part of our concern is that a similar consensus, even of those basic core principles, does not exist today on the environment.

Senator LAUTENBERG. So it is fair to say that you do not think American industry is disadvantaged? I mean you are looking for more information. You do not—you are not aware——

Mr. EISS. I think clearly there are industries that have been disadvantaged because there are higher standards here than abroad. I think the question becomes one of how to in fact——

Senator LAUTENBERG. Okay. We will take that up as a second part.

Mr. EISS. Okay.

Senator LAUTENBERG. I just wanted to see if maybe USTR thought that American companies had to deal with the same problems and that they were not intimidated in any way by environmental requirements here, that other country's companies do not have to deal with. If you see that, it would be reassuring to know that at least generally we are on the same wave length. Because you might be in disagreement with American industry.

Mr. EISS. We certainly hear that from a number of industries. I would also say there are probably some industries in other countries who feel the same way about standards with regard to certain pollutants. And again, I rapidly get out of my area of expertise. But I understand that with respect to sulfur dioxide, for example, our standards are not as high as some European countries.

I would also say this is one of the questions that may apply color comparing standards from one State to another in the United States as well as domestically and internationally. I think that certainly colors our reaction—not in terms of, is there a problem to be addressed, but are we in fact in a circumstance in which this is the appropriate response at this time.

Senator LAUTENBERG. Would you go to another department of government normally to help you come to decisions?

Mr. EISS. Well, in fact, those sorts of judgments and the overall lead on a number of these international negotiations does primarily reside with the Environmental Protection Agency.

Senator LAUTENBERG. Sure. The same thing when you dealt with labor issues you would go to the Department of Labor. So no one is asking USTR to make its decision unilaterally, accusing your Department of having to become the environmental expert. So you do normally work with other departments of government in making determinations; don't you?

Mr. EISS. No, that is true. But it is in fact largely in that context that——

Senator LAUTENBERG. Okay. The effectiveness of trade sanctions is fairly well established I think. Is it true that after Indonesia was threatened with losing its GSP status that it made fairly major reforms in its intellectual properly laws?

Mr. EISS. I do not know. I do not know that for certain. I am not familiar with it.

Senator LAUTENBERG. Check the record for that and submit it.

Mr. EISS. I will get back to you on that.

Senator LAUTENBERG. Mr. Chairman, I have one other question I would like, if I might, to ask and then I am finished.

There is an environmental report card developed of the world's seven leading industrialized nations. That was released in July. It gave the United States a poor grade—41½ percent in meeting the environmental objectives of those nations set at last year's economic summit in Paris. These issues include global warming and environmental aid to Eastern Europe.

If I might ask Mr. Barnes, what kind of a record, what business does the United States have in demanding others clean up their environments and why is your organization, as an environmental group, then endorsing this approach?

Mr. BARNES. Well I need to say a couple of words about the so-called Enviral Summit, which most of the major environmental groups around the world joined in for the first time in those seven countries. For the first time ever we got major groups running across quite a wide spectrum of environmental thinking evaluating their own country's performance. We had about 55 separate questions in six categories, which included population, for example, as an environmental issue, along with all kinds of AID questions, air quality questions, water quality, wetlands protection, species protection and so forth.

We had quite an elaborate checklist, obviously, with all those questions and subquestions and they were weighted to some degree in terms of their relative importance. And what was shocking to us, and this is what we tried to convey at the Houston Summit to the press, was the poor record of all these countries. These are the seven countries which basically control most major institutions on a global level. They control the World Bank, for example. They control many major institutions in the world and their AID programs of course constitute roughly 90 percent of all the AID that is flowing to the developing countries.

I think we, ourselves, we pretty shocked when we added it up and saw that although Germany was touted as being first and they did score more points than anybody else, they barely, just barely, inched into the good category. There were no excellent scores amongst any of the countries. And in general it was a pretty pathetic record.

Senator CHAFEE. What score sheet was this?

Mr. BARNES. It was a score sheet that the environmental groups in the seven countries, about 150 groups altogether, developed among themselves. We are tough graders. I will admit that. That we think it is a fair assessment overall. We would be glad to share it with the Senators in detail if you would like to see it. And basically all the countries were bunched except for Germany, which was just a little bit higher on the list, or bunched in the poor category, around 35 or 40 percent, according to our score sheets.

It is a process that we started about a year and a half ago to try and monitor what is going on at the summit meetings because we think the environment ought to be included in those economic summit sessions. So the last 2 years, for the first time, largely as a result of these initiatives, the environment has been treated seri-

ously at these economic summits and we are going to be monitoring the next three summits at least—this is a long-term project—to see if the performance can be improved by a number of countries.

Senator CHAFEE. Mr. Barnes, unfortunately I have to go and I wanted to get in a question here, then I will leave it to you, Senator. So do you want to wind up your answer fairly soon?

Mr. BARNES. Well, anyway, I will just say quickly we do not see any inconsistency at all in supporting this legislation. Because the fact that a number of countries are not doing as well as they might does not mean that we do not need the kind of leadership that your bill will help promote. So we strongly support it.

Senator CHAFEE. I think that is interesting about the score sheet, and I would be interested in seeing it and reviewing the categories; and also whether it is statutes on the books or whether it is enforcement following the statute.

Mr. BARNES. It is a mixture of both the statutes on the books and the performance commitments and resources and so forth.

Senator CHAFEE. Okay.

Mr. Cunningham, obviously, one of the problems in here is where do you draw the line. Example, one of the points you made in your testimony was these countries might have activities which undermine the health of the worker or the community. Does that mean that we are going to require OSHA, for example, in the various countries or what about if they do not have parental leave? What if they have no corresponding agency to our Food and Drug Administration, and the products sold there might undermine the health of the workers?

It is difficult, but that does not mean it is not worth the try. I think Senator Lautenberg's suggestions have a lot of merit, however, I can just see difficulties.

Mr. CUNNINGHAM. We would never force upon any nation the alphabet soup of agencies that we are living under. But I think the point that Senator Lautenberg correctly hits on is that, if we do not work to amend U.S. statutes, and basically continue or be diverted by going to international forums to get some relief as with worker rights—it took 30 years to get into the Federal statute—if you believe that we can live with these environmental issues for 40 to 50 years then something may be done in GATT in 40 or 50 years, then basically that is the way to go.

If you believe that we have a responsibility not only to our own population, but to a world population using our market as a basis for leveraging good environmental standards which could be and should be developed in these countries, and you basically want to amend Federal U.S. statutes as a way of going. The AFL-CIO has been consistently been desirous of protecting foreign workers. I do not think we need the alphabet soup of agencies. But the concern for workers around the world is one of our concerns.

Senator CHAFEE. Well an example would be the World Bank. Now we have the World Bank taking into account the environmental affects of its actions, which was previously not true.

Mr. Corcoran, I know you and I have discussed the HCFC problem and how you see the Europeans having an advantage. Just to review the bidding on that, your concerns are primarily over the period of depreciation that the Europeans would have on their

plants. In other words, if we have a complete phase out on HCFC's by 2030.

Mr. CORCORAN. Yes.

Senator CHAFEE. The Europeans have no such phase out, you would have 25, 30 years, whatever it is, for the depreciation on the plant you are building in Louisiana where the others would not have that limitation. Is that the principle point you are making? Or also, were you making the point that once we phased out, then we would be a source of import?

Mr. CORCORAN. No, it was the former. The Clean Air bill, the way it is written now—I think that is what you are referring to, and the way it is in conference—the phase out date is really 2015, because you really are not going to make plant improvements after 2015 because of the way you have structured that legislation. And what will happen is that we are in a situation then where we see a time period between now and sometime really before 2015. We have to build that plant to meet those needs.

The European's plants can be sized to serve the U.S. market first, because that is going to be the first market; the European——

Senator CHAFEE. Well now I missed that point. Why would they be sized to meet the U.S. market since your plant is presumably sized to meet the U.S. market?

Mr. CORCORAN. That is right. But if they can sell it for 7 cents a pound less than we can——

Senator CHAFEE. Because their depreciation schedules are longer?

Mr. CORCORAN. Unit cost is lower.

Senator CHAFEE. Their unit cost is lower why?

Mr. CORCORAN. Because they can extend the life of that investment.

Senator CHAFEE. Well that is a risky venture for them to embark on because no one knows this better than you who is quite familiar with the whole CFC problem that the nations—and not just the United States, the European nations—have been moving faster on the CFC's and there is no guarantee that they will not take the same action as we look out into the future in connection with HCFC's.

Now I know that that may be slim consolation to you now as your company plans to make this investment. But I cannot help but believe that as the CFC targets were moved forward from Montreal—I mean, after all it was only in 1987 that in Montreal they only went to a 50-percent reduction by 1998, now they are down to a zero production by the year 2000. I believe that the same will be true of the HCFC's.

Now there is no guarantee, but there was no guarantee that what we did in the Clean Air bill before the London meeting, would be carried over into the London meeting.

Mr. CORCORAN. The point I was trying to make, Senator, is that if we are taking a leadership position on an international issue in domestic legislation we ought to provide some mechanism for companies that are taking a responsible position and going along with that. As you know, we have called for the phase out of HCFC's as well.

There ought to be some reason that if we are going to follow an environmentally responsible approach we ought not be penalized if the rest of the world indeed does not go along. If the rest of the world goes along, that is fine.

Senator CHAFEE. Are you suggesting if our HCFC reduction in production starts in the year 2015, that we pass in the United States, in 1991, a law that will restrict imports from any country that does not have its schedule that in 2015 they will reduce their HCFC's?

Mr. CORCORAN. Yes, sir. That is exactly what I am saying. And the reason is because——

Senator CHAFEE. How do they know that we are not going to back off from our proposal?

Mr. CORCORAN. Well we have faith in you, Senator. We are going that plant to meet that 2015 goal and we are in a situation now where we see our competitors not having to build to meet that goal. It is unlikely we are going to back off any of these global er terprises we are embarking on. What is more likely is the rest of the world will eventually go along.

Senator CHAFEE. But I don't think Senator Lautenberg's proposal says, do as we plan to do 25 years from now. I think his proposal says, and he will have to read it, "Do as we are doing now." I must say you would have considerable moxy, or chutzpah, however you want to use it, to say that we can say to another nation you have to ban something 25 years from now that we are going to ban when we have not yet banned it.

Mr. CORCORAN. Well I do not know what you mean by we have not yet banned it. The Clean Air bill is going to ban it in 2015 for all practical purposes. Do we agree there?

Senator CHAFEE. Well we hope so.

Mr. CORCORAN. Well it is in both bills. You will have to break the rules of conference to get it out of there.

Senator CHAFEE. Don't let that worry you a bit. [Laughter.]

Mr. CORCORAN. So if it becomes our Clean Air law, it becomes the law of the land. Then we have a situation where the United States, we cannot build a plant that will have a productive life beyond 2015. Fair? I understand.

Senator CHAFEE. Well, yours is a bold suggestion shall we say.

Mr. CORCORAN. Thank you.

Senator LAUTENBERG. He will get a raise for that.

Senator CHAFEE. Well I want you to know he is a Chafee trained man. We worked together for 12 years here.

In any event, do you have any other questions, Frank?

Senator LAUTENBERG. I have just a few.

Senator CHAFEE. Why don't you wind up, because I have to go upstairs.

Senator LAUTENBERG. Thank you, Senator.

Senator CHAFEE. I want to thank all the panelists very much. This is an intriguing idea and there may be considerable merit to what Mr. Corcoran proposes. We will give them all due consideration. Thank you.

Senator LAUTENBERG. Thanks very much, John, for your participation, for your sitting through the hearing and holding your edge. Thank you.

I would ask a couple of quick questions, hopefully with quick answers.

Mr. Barnes, how difficult do you think it would be for the purposes of this bill to illustrate or to define what an effective natural resource protection and effective pollution and abatement and control standard might be to protect air, water and land? And what international conventions would we look to as examples of how to achieve what we would like?

Mr. BARNES. I think it would be easier in some areas than in other areas. For example, there are a lot treaties about marine pollution. There are not very many treaties, even bilateral treaties about air pollution, although they are coming along. We have the ECE long-range boundary process, for example, that is attempting to grapple with that. But it really does vary from case to case.

So the short answer to your question is: I think there will be some difficulty but I think it is not insurmountable. It will be a very interesting exercise. It will be an educational process for all of us involved in it. And I think it is achievable.

Senator LAUTENBERG. Some have argued that we would be penalizing developing countries like those eligible for Caribbean Basin Initiative benefits, GSP, countries in Eastern Europe just emerging from communism where their economies are in virtual ruin, who just cannot afford to take steps that we would take to clean up their environment. It is said by some that this bill unfairly burdens their economies.

Can you address that question from an environmental perspective?

Mr. BARNES. Well I think I alluded to this a little bit earlier. I think all of these countries, whether you want to talk about Eastern Europe as a group, a very interesting group, or other kinds of developing countries—and again they do vary widely. The situation in Africa, for example, I think is very, very different from the situation say in Southeast Asia or parts of Latin America.

But in general there is no doubt that these developing countries and the Eastern Block are suffering grievous debt burdens and those debt burdens make it very difficult for them to invest in a lot of things that make long-term sense, which is one reason why most of the environmental groups have concentrated a lot of effort in the last few years on major players, like the World Bank, to try to change their fundamental approach to development and to redefine what sustainable development means.

And while we are also working on AID programs, as I mentioned earlier, to shift the focus to some extent of those AID programs. So when you look at the SEED Act, for example, for Eastern Europe you will find some very interesting language in both SEED One and now SEED Two, that is different from prior AID to that region of the world from the United States.

And if you look at the new Philippine multilateral aid initiative that has been worked on for the last year and a half of which the United States is a key participant, again there is a lot of emphasis on long-term natural resources management and pollution and so forth in that aid package. So I think we cannot ignore the burdens these countries are facing, but there are ways—very straightfor-

ward ways—to help them obtain the right tools, shall we say, so that their long-term future is a happy one.

I view this legislation as being a very good goad in that sense to move in the right direction. But it needs to be coupled in a sensitive way with various kinds of benefits and resource flows and so forth which can come from a variety of different sources so that they really can invest in that kind of future.

Senator LAUTENBERG. I think, at least it is my mission, to raise the awareness level within those countries as well. The sudden freedoms that we have found in Eastern Europe have permitted people for the first time to criticize the quality or the condition of their environment, have permitted them to demand of their governments that they all get together and work. The stories that we saw in recent months about Poland having to go down into an old mine to get a breath of fresh air, to have to descend into the earth 600 feet to find fresh air for families where they would take a trip down there. It is pathetic when you think about it.

Well those people want the jobs but they also want an improved environment. So maybe the two of us from inside their country and us from the marketplace here can do something that will encourage man's creativity and ingenuity to get on with solving more than one problem at the same time. We are often asked to do that.

Mr. Cunningham, how did the AFL-CIO determine what were internationally recognized workers rights? What sources did they use for that?

Mr. CUNNINGHAM. As Senator Moynihan pointed out, the ILO (International Labor Organization) had developed a set of conditions for internationally recognized workers rights; and the proposals that I worked on in the last trade act, we modified those when certain objections were raised. One of the criteria for internationally recognized workers rights was a minimum wage. There was some concern that that would be construed as the U.S. minimum wage. It was really supposed to be the minimum wage in terms of that country.

Because that became a controversial issue we dropped that. But basically we used existing international organizations, definitions of international workers rights, modified it during the congressional process to take care of problems that we went through.

Senator LAUTENBERG. To your knowledge has the United States experienced any retaliation for requiring GSP countries to protect their labor rights?

Mr. CUNNINGHAM. Well you have to remember that GSP is outside of GATT. So there is no retaliation. This is an additional benefit over and above GATT and it is not subject to retaliation under the GATT. Most of these countries—all of these countries—are developing countries who want access to the U.S. market. They basically do not retaliate against the United States. They want to get into our market.

Senator LAUTENBERG. Right. But there are other ways to retaliate especially with these developing countries.

I don't know if anyone has any knowledge. Does USTR have any—the question was asked, Mr. Eiss, and I know you were looking for information. Do you have any yet?

Mr. EISS. Well, Senator, first to the more general point. While the GSP program is technically outside the GATT it was endorsed by the GATT at the end of the Tokyo Round of multilateral trade negotiations. The application of standards such as with respect to worker rights has not gone uncriticized by countries. They question whether or not in fact applying that principle was consistent with the overall mandate that was created at the end of the Tokyo Round.

And at least one country has engaged us in consultations based on our review of GSP and their worker rights situation. So again while GSP does sit outside the GATT system, it is something which is not totally unrelated to the GATT system and could be subject to review.

Senator LAUTENBERG. Right. But to your knowledge there hasn't been any retaliatory measures taken? You talk about consultation. Nothing to your knowledge yet?

Mr. EISS. Not to my knowledge.

Senator LAUTENBERG. I thank each one of you for your valued participation.

Thanks for your help. I am encouraged by what I have heard and I think that we are going to wind up with something that says the United States believes that environmental protection is an important part of its focus and that we are asking people are the world to help us all breath just a little bit easier.

Thank you very much.

With that this committee hearing is adjourned.

[Whereupon, the hearing was adjourned at 4:09 p.m.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED

PREPARED STATEMENT OF JAMES BARNES

I. INTRODUCTION

I am James Barnes, Senior Attorney for Friends of the Earth, a national environmental organization with affiliates in 37 countries. We appreciate the opportunity to testify today in support of S. 2553, the Global Environmental Protection and Trade Equity Act, introduced by Senator Lautenberg, with Senators Kasten and Dixon as co-sponsors. We commend the sponsors for their foresight and initiative in introducing this legislation.

S. 2553 promotes the adoption of environmental protection standards in countries seeking trade benefits made possible by the legislation. The legislation would prohibit the granting of Caribbean Basin Initiative (CBI) or Generalized System of Preference (GSP) status to a country unless it meets two requirements. First, the country must have effective pollution abatement and control standards for air, land, and water; and second, there must be general compliance with these standards within the country.

This is a most welcome piece of legislation for it recognizes the increased awareness of the relationships among trade laws, the negotiation of trade agreements, and environmental concerns. For this reason the Sierra Club, the Environmental Defense Fund, the National Wildlife Federation, the Natural Resources Defense Council, Greenpeace and the Development Gap have endorsed the bill and urged all Senators to co-sponsor it.

S. 2553 would correct one of the deficiencies of our general trade laws which is the lack of attention given to environmental problems besetting most nations in the world. The value of world trade in 1907 was in excess of $6 trillion and this figure continues to grow. Such a tremendous volume of economic activity is bound to have a variety of environmental consequences, but very little effort has been made to assess the environmental significance of this trade and of the laws which regulate it.

By conferring the trade benefits of GSP or CBI status, S. 2553 provides tangible, positive incentives for a country to safeguard the health of its people and to protect its natural resource base upon which its long-term economic well-being depends.

II. NEED FOR SUCH LEGISLATION

In the 1950s and 1960s the need for nationwide pollution standards became evident in the United States. industries were shopping around for states with less stringent standards. It became apparent that the practice of trying to lure polluting industry with lax standards or enforcement was not good policy. Furthermore, it was recognized that pollution did not stop at state borders.

As we enter the final decade of this century, it is time to carry the same principle forward internationally. We should not be promoting or allowing the flight of multinational corporations to those countries with the least stringent pollution control. This will undermine international efforts to protect the health of all the people on the planet. Furthermore, pollution problems do not remain confined to a small area. Just as pollution does not stop at a state line, nor does it necessarily stop at a national border. Severe pollution and use of certain chemicals can have potentially dangerous impacts on the earth's atmosphere, thereby affecting all humanity. For example, the dangers of chlorofluorocarbons (CFCs) as depleters of the ozone shield has now been recognized. The use of such chemicals by just one or two nations could

continue to severely damage the ozone shield which protects all people and life on the planet from harmful ultraviolet radiation.

Clearly, many pollution problems must be tackled directly, but it makes no sense to close our eyes to the potential of trade laws for encouraging environmentally beneficial activity and the avoidance of serious pollution.

The examples of transboundary pollution are numerous. Chernobyl, of course, is a particularly tragic example. The pollution in Eastern Europe adversely affects not only the rivers, forests, land, and lakes in those countries, but also harms forest and lakes downwind in other nations. (See the attached statement for more in-depth treatment of the serious environmental conditions in Eastern Europe.)

Right here along the United States borders we have a number of examples of transboundary pollution. For instance, pollution in Mexico in the Tiajuana River has adversely affected the beaches at San Diego because raw sewage was continuously dumped in the water, the most elementary controls were not placed on toxic discharges and disposal. With respect to air pollution, Mexican copper smelters, some financed with international lending, have not had to meet the same air pollution standards as those in the Southwestern United States. The prevailing winds carry such air pollution into Arizona and beyond. An extensive controversy developed in the 1980s on this matter and serious negotiations had to be undertaken between the United States and Mexico to resolve the dispute

III. SUGGESTED AMENDMENTS TO S. 2553

We recognize that it would not be desirable to go into depth in the legislation on the nature of pollution statutes necessary in order to receive trade benefits. However, we suggest a change in the paragraphs of Section 2 and Section 3 which currently read:

> "if such country does not have effective natural resource protection and effective pollution abatement and control standards to protect air, water, and land or if such country's standards are generally not observed."

We recommend the addition of protection to groundwater, wildlife, and wetlands, and critical natural areas in this paragraph as follows:

> "if such country does not have effective natural resource protection, including protection for wildlife, wetlands and areas of high biological diversity and effective pollution abatement and control standards to protect surface and ground water, air, and land or if such country's standards are generally not observed."

IV. SAFEGUARDS IN THE BILL

Some might wonder whether the legislation is too stringent on developing nations or on the countries of Eastern Europe. Can these countries afford to have pollution control laws, given their debt burden or the poor condition of their economies? First, it should be pointed out that there is an escape clause in the bill for countries which are in the process of implementing environmental protection measures. Thus, a country which is on its way to improving environmental quality would not be penalized. In addition, the President may waive the requirement for CBI status if he determines that it is in the national security or economic interest to do so. The President may waive the environmental requirement for GSP status if he determines it is in the national economic interest. These provisions for exceptions of waivers are consistent with the standards for waiving other requirements of the GSP and CBI statutes.

The question of whether developing countries can afford the cost of pollution control measures clearly is a very big issue, which is larger that the context of trade laws. It is the position of Friends of the Earth that generally the vast majority of pollution control measures are things that we cannot afford not to do. That is, failure to carry out minimal natural resources protection and pollution control in the medium and long run undermines the health of the population, causes great tragedy among the very young who are susceptible to diseases and carcinogens, and eliminates the basic natural resource base upon which sustainable forestry and agriculture must depend.

Furthermore, we believe that there is an ongoing obligation to provide foreign assistance to developing countries and to Eastern Europe to help them restore degraded lands and waters and to provide the technology to enable them to avoid some of the heaviest pollution burdens which many industrialized countries have experienced.

V. RELATIONSHIP TO GATT

S. 2553 is especially needed at this time because it corrects the notion that environmental standards constitute a trade barrier under GATT. This legislation signals that sound natural resource policy and pollution controls are prerequisite for sharing full trade benefits. As such, it moves the United States into a position of leadership on international environmental matters.

We would like to express to the Committee at this point our concerns about the GATT discussions. First, environmental organizations are not being involved in this process nor are they being given an opportunity to comment on the various proposals being advanced by governments around the world. Participation seems to be restricted to large corporations and trade associations. This shroud of secrecy is not healthy and could produce a new set of trade agreements which fail to recognize the major environmental ramifications of international trade.

Second, there is a concern that a new GATT agreement might preclude a nation from having various environmental requirements on imports and exports. For example, Denmark had a waste reduction regulation requiring all been and soft drinks to be sold in returnable containers and made no distinction between beverages manufactured or bottled in the country or those imported into the country. The Court of Justice of the European Community found that such a regulation went too far because it might be more expensive for importers than for domestic producers and thus might be a restraint of trade.

We believe that one of the strongest features of S. 2553 is that it would encourage important initiatives such as this rather than trying to categorize them as restraints to trade or unfair competition. S. 2553 is saying the opposite about environmental laws, namely, that failure to have them constitutes unfair trade and competition. The solid waste load on the planet is enormous and waste reduction laws, such as the one just mentioned in Denmark, make good common sense.

The environmental provisions of S. 2553 are modeled after the labor provisions in our current trade laws which define unfair trade practices to cover the denial of the right to organize and bargain collectively, and the provision of minimum wages, child protection, and worker health and safety. To the best of our knowledge these sound labor provisions have never been successfully challenged as violating GATT. Thus, we believe that the environmental provisions can withstand any GATT challenge.

VI. CONCLUSION

We strongly support S. 2553 and hope that it can be acted on swiftly. The environment conditions around the world are so severe that decisive action is needed now. The area international trade badly needs environmental attention and S. 2553 takes the lead in providing this attention.

PREPARED STATEMENT OF WILLIAM M. CORCORAN

My name is William M. Corcoran, and I am the director of public affairs of the Engineered Materials Sector of Allied-Signal Incorporated. Allied-Signal, with its worldwide headquarters in Morris Township, New Jersey, is one of America's 30 largest industrial firms, an $11 billion company with approximately 113,000 employees in some 500 plants, technical centers, sales offices and other facilities. About 70 percent of our employees are located in the United States; some 32,000 employees work in 45 other countries, and our products are marketed in over 100 countries. We are particularly pleased to have the opportunity to address this panel on the impact of environmental concerns on international trade and competitiveness. I applaud this subcommittee, and Senator Lautenberg in particular, for beginning to address these very serious and complex issues, and particularly the question of whether the United States should use its international trade agreements to promote better environmental programs.

Allied-Signal is increasingly concerned about the growing disparity between the cost of complying with environmental requirements in the United States and the cost of complying with environmental rules in other countries. This is of particular concern to our engineered materials sector; most of our 39 plants in this sector are located in this country. Unless something is done, the disparity between U.S. and foreign rules will make it increasingly difficult for some of the products of our U.S. plants to compete effectively in some markets. As a result, American exports and American jobs will suffer.

We recognize that these costs may be necessary to assure protection of the environment. However, Allied-Signal competes against companies manufacturing in countries where environmental requirements are far less stringent or costly.

Mr. Chairman, let me offer a clear example of the problem addressed by this hearing.

Our company is one of the largest manufacturers in the world of chlorofluorocarbons—CFCS—chemicals used as refrigerants and to make energy-saving insulation. Those chemicals have been implicated in depletion of the earth's stratospheric ozone layer. Thus, the United States and most of our trading partners are phasing them out under a landmark international agreement, the Montreal protocol. Allied-Signal supports that agreement and the phase-out of CFCS.

The problem has to do with the next generation of chemicals that will serve as alternatives to CFCS—the so-called hydrochlorofluorocarbons, or HCFCs. It is widely agreed that HCFCs are critical to the success of the CFC phase-out. Unfortunately, most HCFCs are still in the testing stage; factories to produce them have not yet been built. But we have an ambitious substitute research and development program underway, and we expect to spend more than $250 million in this effort by the turn of the century.

The issue arises from the fact that HCFCs have some ozone-depletion capacity, though only a small fraction of that of CFCS. Because of this, we have agreed with the administration and the Congress that the lifetime of these substitutes should be limited, too. Such a mandated future phase-out of a product that is both critically needed and not yet produced is probably unprecedented. In any event, Congress is poised to mandate a future phase-out of HCFCs in the clean air act amendments, by slashing allowable uses of HCFCs, and freezing production of HCFCs, in 2015. The amendments also will prohibit production of HCFCs altogether in 2030. Furthermore, the EPA will have the power to accelerate this schedule.

The important point is that, in the HCFC phase-out, the United States is proceeding alone. The rest of the world is not yet willing to mandate a phase-out of HCFCs.

What does this mean for Allied-Signal and for the United States? We already have announced plans to build the first substitute plant in Geismar, Louisiana, hopefully breaking ground this fall. This plant will produce an HCFC which will replace CFCS in insulation and microelectronic cleaning applications.

But, if we build this and other HCFC plants in this country, as we intend to do, we are faced with a problem. How can we compete with foreign companies who do not have the same time limits for recovering their capital costs?

What we know is that we will lose most of our U.S. market by 2015 at the latest. Under the pending clean air bills, the EPA very likely could advance the date. And many of our customers may switch to other substances before 2015 to avoid running into a brick wall when 2015 arrives.

Contrast our situation with the foreign producer's. The foreign producer does not face a production ban or a domestic consumption ban on HCFCs. That producer will be able to build HCFC factories on the assumption of a normal 30-50 year lifetime for the factories.

What that means is clear. The foreign producer will be able to recover its capital costs over a much longer time period than we will. Lower per-unit production costs will result, and that will translate into a substantial competitive advantage for the foreign producer.

This is the type of problem that legislation such as S. 2553 is needed to address. Tile HCFC cost advantage for foreign producers could lead to foreign dominance of our HCFC market. That, in turn, would probably lead to eventual foreign dominance in the next generation of chemicals. Advances in chemicals are made through cooperation between the maker and the user; we try to satisfy our customers' unique needs. If we lose our HCFC customers, we obviously will not be in a position to work with them in meeting future needs. Thus, if foreign producers capture the HCFC market, they are likely also to capture the market for the next generation of substitute products. As a result, their competitive advantage will continue long into the future.

This issue illustrates how we will, in effect, be penalized for taking an environmentally responsible position and maintaining U.S.-based production. Further, unless we can convince other countries to go along, this country's action will have little effect on the stratospheric ozone problem. while it is true that limiting HCFC production worldwide might lessen destruction of the ozone layer, U.S. restrictions standing alone will only encourage foreign producers initially to build to meet U.S. demand. They will then simply sell HCFCs elsewhere in the world after the U.S. ban goes into effect.

This subcommittee is faced with the difficult task of determining how best to use the leverage of access to U.S. markets to encourage other nations to take the environmentally responsible position. In this case, the remedy would seem to be that the government condition full access to the U.S. HCFC market on adoption of an HCFC phase-out by the exporting county.

Restricting HCFC imports, or restricting the import of other goods deemed environmentally harmful, is not the type of trade-restrictive measure that trade agreements traditionally have sought to limit. To the contrary, such a measure is justified manifestly on public health and welfare grounds. It is no more objectionable than controlling the number of foreign flights into the U.S. so that there is not unmanageable air traffic congestion. Restricting HCFC imports would be a reasonable response to a scientifically demonstrable health hazard.

Aside from the HCFC problem, and on a more general level, it would seem to us that Congress should consider the trade implications of any major U.S. action designed to protect the environment. The most direct approach, of course, would be to try to establish greater harmonization of environmental requirements on an international basis, with agreed-on trade sanctions such as those contained in the Montreal protocol. This is the approach least likely to generate spiraling trade protectionism. This is the approach most likely to raise the standards of environmental protection generally.

However, where such a fully coordinated joint international approach is not successful, then it is logical for this committee to explore how to effectively use access to American markets as a lever to encourage other countries to upgrade their environmental requirements. We applaud Senators Lautenberg, Kasten and Dixon for taking such an approach in the global environmental protection and trade equity act, S. 2553. this is a good start in the right direction.

The bill would encourage the adoption of environmentally sound growth policies in some of our closest neighboring countries—the consequences of which would benefit both their peoples and our own. Also, the bill represents progress toward a recognition of the fundamental relationship between U.S. leadership in protecting the environment and the corresponding impact on U.S. industrial competitiveness.

There are two major provisions in the bill. First, the bill properly recognizes that this country may consider certain fundamental, internationally accepted policies when it unilaterally extends significant trade benefits to others. I am no expert on international trade law, but I understand that the President must consider whether those countries seeking the benefits of duty-free access to U.S. markets adhere to certain international norms, such as basic worker rights and compensation for the expropriation of property. Sound environmental practices may take their place alongside such standards, provided that congress can work out a way to properly define the standards we expect developing countries to meet. There can be legitimate debate over what criteria actually could be used to judge the "effectiveness" of another country's environmental protection program. That standard, and the decisionmaking process, must be carefully examined and considered in the legislative process so that the poorer countries will make real progress toward environmental protection at the same time they make needed economic progress. both goals should be served.

Second, the bill recognizes that foreign government endorsement of industrial production without proper environmental controls constitutes an indirect subsidy that puts U.S. industry at a disadvantage. We ought to encourage foreign governments to confront this reality. This bill may not guarantee a satisfactory result, because of the problem of the definition of the appropriate standard to apply, but it certainly is moving in the right direction.

Aside from this particular bill, environmental control costs certainly should be factored into our economic policy deliberations, and specifically, into our trade negotiations. This country is pursuing at the same time the twin goals of tougher environmental restrictions and liberalization of trade, including vast new bilateral and multilateral free trade agreements. Such trade agreements include negotiation with Mexico to enter a free trade agreement; implementation of the current U.S./Canada free trade agreement; the potential expansion of trade zones to Central and South America; recurrent discussions of similar trade agreements with Asian countries; and the completion of Uruguay Round talks scheduled for this year. As we pursue these free trade efforts, we cannot afford to ignore the competitiveness consequences of vastly different environmental costs among trading nations. Further, we cannot afford to ignore the environmental impact our trade measures may cause. We must use access to the $3 trillion U.S. market as leverage, both to improve the environment and to avoid penalizing environmentally responsible companies and countries.

In summary, we believe that Senators Lautenberg, Dixon and Kasten are moving in the right direction with S. 2553. Concerning the particular problem I described, it should be required that countries desiring to export HCFCs to the United States should adopt HCFC controls comparable to those adopted by the United States. We believe congress should continue to explore other avenues to use our market access to encourage other countries to follow the U.S. lead in environmental protection in this increasingly interdependent world. We are ready to assist this subcommittee as you explore solutions to this very important problem.

Thank you.

PREPARED STATEMENT OF WILLIAM J. CUNNINGHAM

Mr. Chairman, the AFL-CIO appreciates the opportunity to testify on behalf of Senator Lautenberg's legislation, S. 2553, the Global Environmental Protection and Trade Equity Act. The AFL-CIO has worked closely on many environmental issues with Senator Lautenberg. His leadership in this area is well known. He is aware of the need to balance environmental concerns with the economic and employment impact of proposed environmental changes. His sensitivity to the complexity of this issue, where legitimate objectives are sometimes in conflict, has been the reason for the AFL-CIO's support of many of his efforts.

S. 2553 represents a major effort to include environmental conditions in trade legislation. It deserves this Committee's detailed study and action.

As members of the Committee know, the AFL-CIO strongly believes that it is the responsibility of our government to use trade statutes to insure fair trade and to develop and administer programs that minimize any adverse effects resulting from international trade. Our support for the vigorous enforcement of trade remedy laws, including countervail, anti-dumping, 201 and 301 indicate our commitment to an aggressive trade policy in which our government intervenes on behalf of American workers and industry.

On the other hand, the AFL-CIO has been traditionally concerned with the plight of workers overseas. Through both domestic legislation and international forums we have pressed the identification of "internationally recognized workers rights" as a condition for a truly open and fair trading system. In domestic legislation we have worked to improve trade legislation by including worker rights as a condition for GSP and OPIC eligibility and by defining the denial of such rights as an "unreasonable" trade practice under section 301. The basis for this activity is our strongly held view that the exploitation of foreign workers through a prohibition on unions or the maintenance of unsafe working conditions, constitute an unfair trade practice. The unfair advantage thus derived, is on a par with products that are made with government subsidies, or illegally dumped when they are sold below the cost of production.

Senator Lautenberg's legislation builds on existing trade law. It is his view and ours that products made in an environmentally unsafe manner constitutes an unfair trade practice. Most importantly, it undermines the health of the worker and his community, and unfairly reduces the cost of a product which does not have to meet any environmental standards. Let me give this Committee one recent example of this phenomenon.

According a May 14, L.A. Times article, furniture makers have been leaving Southern California and setting up production down the road in Tijuana, in order to escape tough environmental rules imposed in 1988, concerning the use of solvent-based paints, stains, and lacquers. By moving they also avoid paying California's workers' compensation insurance premiums, which, because of the hazards of woodworking, cost employers a basic rate of 19 cents on each $1.00 paid out in gross wages.

The tragic irony of this is obvious. The pollution that California sought to eliminate remains. It merely originates a few miles away, across the border. Workers in the U.S. have lost their jobs, and Mexican workers are endangered by the absence of effective health and safety regulations.

On a larger scale, the Federal Clean Air Act that is currently being considered by Congress will also impose more wide-ranging costs on domestic producers, and may generate even more transfers of production. The solution is not to lessen the effort to reduce pollution, but to recognize that such efforts may produce related problems that must be addressed.

The problem is not only one that affects foreign workers and the loss of U.S. workers' jobs. It can affect the health of Americans. A recent study by the AFL-CIO on the Mexican border plants indicates that unsafe environmental practices in these

Maquillodora plants have had an adverse effect not only on the health of Mexican citizens but also on U.S. citizens along the border. (a copy enclosed for Committee's record)

The S. 2553 prohibits CBI designation or GSP status to a country unless it meets two conditions: (1) the country must have an effective natural resource, pollution and abatement control standards to protect the air, water and land, and (2) These standards must be generally observed.

These requirements can be waived by the President on his determination of a national economic interest.

The legislation also makes the violation of these environmental standards actionable, as an "unreasonable" trade practice, under Section 301 of the Trade Act.

As with all new proposals there are some problems. There are presently no agreed upon international environmental standards. The Lautenberg legislation correctly anticipates such a group of standards may be developed by U.S. Trade Representative working with private industry, environmental groups, trade unions and our foreign policy establishment here and abroad. Just because this effort will be time consuming there is no reason for this effort to be delayed. We are committed to work with this Committee in developing effective criteria that can be implemented. We must be particularly vigilant, to insure that any such international standards do not undermine current U.S. law, or inhibit the enactment of stricter domestic environmental or health and safety standards.

However, I wish to point out that there are some problems with this approach. The AFL-CIO has annually petitioned the U.S. government concerning specific countries with extensive workers rights violations. These petitions have frequently been ignored and it is our fear that a similar result will occur with private efforts to secure the repeal of CBI designation or GSP benefits, or the imposition of 301 sanctions on environmental grounds. Perhaps a way to improve this process would be to provide for an annual congressional procedure similar to what is being developed in the mini trade conference concerning Most-Favored-Nation status.

In conclusion, Mr. Chairman, the AFL-CIO supports the Lautenberg legislation as a necessary beginning in identifying unsafe environmental practices as an unfair trade practice. We are willing to work with this Committee in developing an approach that is feasible.

Attachment.

Maquiladoras: The Hidden Cost of Production South of the Border

Introduction

For more than two decades, the flight of American-owned assembly operations to the "maquiladoras" just across the Rio Grande has wreaked havoc among workers in both the United States and Mexico.

For American workers, the maquiladoras mean the loss of hundreds of thousands of jobs as giant corporations—aided and abetted by the U.S. government—have shut up shop in this country and moved to Mexico in search of an easily exploitable workforce.

For Mexican workers, most of whom are women and young girls, the maquiladoras mean meager wages of as little as $2.90 a day, soaring consumer prices, working conditions that resemble the sweatshops of the late 19th and early 20th century, and a woeful lack of an adequate infrastructure (housing, sewage systems, water supplies, roads and bridges.)

Now evidence is mounting that the maquiladoras pose a potentially more serious menace to those living on both sides of the border—the ecological hazard caused by these plants as they release toxic wastes into the air, the water and the land.

Here are the dimensions of the problem:

- Drinking water supplies and irrigation waters are being polluted and fish and wildlife face extinction.
- The fragile ecosystem is endangered by indiscriminate dumping of waste in land dumps.
- The region lives under the threat of toxic poisoning caused by transportation or industrial accidents
- Adequate waste treatment facilities are lacking on both sides of the border.
- Mexican workers are frequently denied basic health and safety protections against occupational illness or disease, and they risk the loss of their jobs if they protest these dangerous conditions.
- The cost of cleaning up industrial and bacterial contaminants is skyrocketing, as is the price tag for building roads and bridges to supplement those damaged and overloaded by hazardous materials haulers.

This report analyzes the silent compact between many corporations and the Mexican government, which amounts to a waiver of responsibility for the safe use of toxics in the workplace, and for their careful transportation and disposal. It points up the grave health, ecological, social and economic problems that have arisen because of the unchecked growth of the maquiladoras.

The report was compiled from interviews and research done by Leslie Kochan of the Oregon Dept. of Environmental Quality. The subjects of her interviews are listed as sources on the inside back cover and referred to in the text. Kochan, who has an MS in Environmental Policy from Tufts, has worked on hazardous waste issues for the Texas Center for Policy Study.

I. U.S. and Mexican Environmental Protection and Health and Safety Laws

The Flight from United States Regulation

One of the big attractions that the maquiladoras hold for American industry is the Mexican government's hands-off attitude toward environmental protection and worker health and safety laws.

The Texas Economic Commission has used this argument to promote the flight of U.S. firms to the maquiladoras. It points out that in Mexico: "Governmental control is minimal; for example, there are no stiff prohibitions such as in the United States with respect to air quality, etc." While it is obviously difficult to document that American firms have specifically moved to Mexico to evade more stringent regulations in the United States, the following experience by Kast Metal Workers bears witness to the allure of an unregulated environment.

Enforcement, not legislation, is the problem.

For years, Kast Metals, Inc., of Keokuk, Iowa, fought against Occupational Safety and Health Administration (OSHA) inspections. In 1982, the Iowa State Bureau of Labor won a lawsuit that got the state OSHA agency into the plant. In 1987, Kast Metals was fined $2,000 for "serious violations" centering on improper containment of certain toxic gases. It has now closed its Keokuk plant and moved to Carmago, Mexico. (Longoria, 1987).

Although Mexico's environmental and worker health laws have been extremely weak, the government is now drafting new and tougher regulations. The concern, however, remains enforcement.

The two countries have differences in policy and enforcement.

The Political Realities

U.S. environmental and worker health and safety laws set admirable goals. But the Reagan Administration tried to destroy these safeguards by:

- Slashing funds for OSHA and the Environmental Protection Agency.
- Proposing to suspend regulations requiring industries to treat sewage before dumping it into municipal systems.
- Supporting efforts to end federal control of toxic wastes.
- Placing anti-environmentalists in key positions.

The Reagan Administration crippled many important programs, but could not destroy them. Unions, environmentalists and citizen groups convinced Congress and the courts to lessen the damage.

Now, Mexico is putting together new regulations on pollution and worker exposures. But it lacks the economic resources to do an adequate job. And it doesn't have strong environmental or community groups to put pressure on the government.

According to a 1986 United States Department of Commerce report issued by the U.S. Embassy in Mexico, Mexican environmental groups have been able "to point to a few successes in influencing" government policy, but are hampered by an inability to "obtain credible scientific data and by the lack of local government or legislative institutions with which the groups can influence policy."

Ron Nye, a longtime environmental and conservation activist in Mexico, sums it up this way: "The problem isn't going to be legislation or regulation, but rather enforcement—and enforcement will require citizen and worker representation."

Mexico's Environmental Laws

The Federal Environmental Protection Law of 1982 marked the beginning of Mexico's efforts to do something about the problem. But four years later, the government still hadn't set standards for discharges into water and air, or for disposal and treatment of hazardous materials.

By 1986, standards were being prepared for solid waste disposal and for a limited number of air emissions. But only a few industries—like the national oil company and some copper smelters—had monitoring systems to detect violations of environmental standards.

In 1987, the Mexican Hazardous Waste Decree developed the first brief list of "hazardous materials," but didn't regulate waste storage sites.

The General Law on Ecological Equilibrium and Environmental Protection was adopted in 1988. A series of "ecological technical standards" were subsequently issued. They covered air pollution from gasoline vehicles, cement industry ovens and sulphuric acid production, and water pollution from asbestos, copper, synthetic rubber, glass and flour production.

But the 1986 Embassy report stressed that "the development of technical, financial and human resources to make the enforcement of current and future regulations widespread and predictable is difficult to forsee given the current economic and budgetary situation in Mexico."

Control of Toxic Chemicals

In the United States, the 1976 Toxic Substances Control Act regulates the evaluation and registration of raw industrial chemicals. It provides that chemical manufacture, import and disposal may be restricted and banned. New chemicals entering the U.S. market are subject to notification requirements. A more rigorous registration on the testing process is required under the Federal Insecticide, Fungicide and Rodenticide Act.

Exports of hazardous substances must be reported to EPA, which in turn is supposed to notify Mexico if these materials are going into that country. But the process is slow, and according to Border Ecology Project researchers, dangerous substances could be far into Mexico and already into production and use before local authorities on either side of the border are aware of the shipment. (Kamp and Gregory, 1988).

Transporting and Disposing of Hazardous Materials

The 1976 Resource Conservation and Recovery Act (RCRA) set up a system to identify waste and track its generation, transport and disposal in the U.S. It also includes standards for disposal sites and state programs to regulate hazardous waste.

The law mandates registration for hazardous waste transporters and disposal sites. It requires a system of manifests to track waste from its source of production to its final disposal or destruction, certification that the waste is properly labeled and packaged, and certification that treatment, storage and disposal are adequate to minimize present and future health and environmental threats.

Mexico has a similar manifest system, but few government employees are available to provide information on laws and to oversee inspections and enforcement. It is administered by the Secretary of Urban Development and Ecology (SEDUE). Charlie Webster, a Texas Water Commission (TWC) employee in Westlaco reported that there is only one inspector in Tamaulipas and one or two in Chihuahua to enforce all of SEDUE's environmental laws. Bill Lockey, TWC district manager in the El Paso/Odessa area knows of only one SEDUE employee in Westlaco, reported that there is only one inspector in Tamaulipas and one or two in

In the United States, firms which keep waste on their property more than 90 days must obtain waste storage facility permits. Mexico has no limit on how long waste can be stored.

The 1976 U.S. law spells out the manner of waste treatment and disposal, provides for monitoring of disposal sites, and contains stringent penalties and enforcement mechanisms. Major 1984 amendments expanded waste management requirements, banned land disposal of liquid wastes, regulated underground storage tanks, and extended coverage to small firms generating hazardous waste.

While U.S. landfill regulations are no guarantee of safe disposal, Mexican hazardous waste landfills are likely to be worse. The first Mexican toxic waste sites were opened in 1981—16 years after the start of the maquiladora program. These sites don't come up to U.S. standards and their capacity is inadequate to even meet the needs of Mexican-owned industries before the growth of maquiladora waste.

One researcher estimates that 20 million tons of waste are generated each year, and that another 100 million tons of accumulated waste are improperly stored. (Ortiz-Monasterio, 1987). Reports on the number of licensed sites vary widely. While experts disagree on the number, they generally agree that capacity is grossly inadequate for properly handling the waste generated by Mexican companies. Indications are that until last year there were only two. Robert Sanchez, Director of the Colegio Fronteria de Norte, states there are now six small-sized, Mexican-operated hazardous waste disposal sites. Another expert says there are three sites licensed for all waste disposal and another 12 with limited uses. (Franco, 1988).

Binational Agreements on Transportation and Disposal

Mexican toxic sites were inadequate before the growth of Maquiladora waste.

Mexican law requires that if raw chemicals or any other hazardous materials are imported for use in the maquiladoras, the toxic waste generated must be returned to the country of origin. Several agreements on transportation and disposal between the United States and Mexico enforce these agreements. One requires notification to, and permission from, the country receiving waste. For example, a U.S.-operated maquiladora must first find an American disposal site willing to accept its waste. Mexico must then ask EPA approval for the disposal. Similarly, U.S. firms operating in this country must get EPA and Mexican approval to ship wastes south of the border for disposal.

Lauren Fondahl of EPA says most U.S. companies know they must get permission to export waste to Mexico. However, many U.S. maquiladoras believe that since the agreements require waste generated by products of American origin be returned to the United States, there is no need for agency notification or permission.

Regulating Chemicals in the Workplace

In the United States, OSHA sets standards to protect the health and safety of workers in the workplace. In 1971, the agency designated some 400 substances as air contaminants and set threshold-limit values for exposure. By 1988, two dozen substances were subjected to tougher standards on exposure limits, labeling, protective equipment, control procedures, monitoring and measuring employee exposure, medical exams, and government access to records of exposure-monitoring activities.

In Mexico, no such standards have yet been set to protect workers from exposure to industrial chemicals in plants, although new regulations are being developed on specific materials. But enforcing such standards will require resources not currently available. In Matamoros, for example, workers were unable to find any agencies in the state of Tamaulipas with instruments to measure air concentrations of chemicals. The equipment eventually had to be brought in from Mexico City.

Workers' Right-to-Know

OSHA's Hazard Communication Standard, or worker "right-to-know," was issued in 1983 and expanded to cover all workplaces in 1987. It mandates that chemical manufacturers and employers provide information about hazardous chemicals through Material Safety Data Sheets (MSDSs) and labels. It also requires that workers be given notification and training on chemicals used in their workplaces.

Mexico has no agency equivalent to OSHA. However, "Mixed Commissions" or labor-man-

agement committees are required by the Department of Labor and Social Security under Section 19, Articles 193-212, of the General Law on Health and Safety in the Workplace. According to Rene Franco, an environmental engineer in Juarez who is a health and safety consultant to the maquiladora industry, these commissions have official status and can investigate any concerns regarding safety, lighting, noise, chemical exposure or other unsafe working conditions.

Workers get information by removing labels and sneaking them out.

Franco states that these commissions look at the Mexican equivalent of MSDSs in their evaluation of chemical concerns. If problems are not resolved at the plant level, assistance can be officially requested from the Department of Labor. Franco claims that 95 percent of the industrial audits he conducts each year are the product of good corporate policies rather than agency requirements. While Franco believes maquiladora plants are pushing other Mexican industries to meet U.S. standards, he concedes that the response to the issues of environmental and worker protection varies widely.

Workers and organizers interviewed in Matamoros claim that most companies have resisted setting up labor-management committees and workers generally get information about chemicals they are using by removing labels from containers and sneaking them out of their workplaces. One Texas organizer said that the number of companies setting up committees is growing, but believes this is happening only because workers are organizing, teaching themselves about chemical risks and workplace rights, and obtaining union representation on these issues.

Emergency Response Procedures

The 1986 Superfund Amendments and Reauthorization Act requires establishment in the United States of local emergency response plans for responding to hazardous material accidents and to make information available to the entire community. State Emergency Planning Commissions and Local Emergency Planning Committees (LEPC) must be established to develop and oversee these plans.

Such planning must include:

- Identification of facilities and transportation routes for extremely hazardous substances.
- Emergency response procedures for on-site and off-site accidents.
- Emergency notification procedures.
- Methods for predicting where a release might occur and the areas and population which would be affected.
- An inventory of community and industry emergency equipment and facilities and training for emergency response personnel.
- Evacuation plans.

Mexico and the United States have established joint contingency plans for accidental releases of hazardous substances along the border. Under this arrangement, bordering towns are supposed to develop joint plans for emergency preparedness and response.

The agreement calls on states in both countries to develop measures for reporting polluting incidents, to institute appropriate and timely measures to monitor and restrict the spread of spilled or released contaminents, and to assure that there are adequate means to respond to an incident.

II. Hazardous Waste Disposal Practices

A 1986 survey by El Colegio de la Frontera Norte showed that only 20 out of 772 maquiladora plants along the entire U.S.-Mexican border notified EPA that they were returning waste to the United States. Yet, 86 percent of the surveyed plants use toxic materials. (Juffer, 1988). It is conservatively estimated that plants in Ciudad Juarez alone generate 5,000 tons of waste a year. (Pinkerton, 1988).

Many wastes are undetected when crossing the border in either direction.

Data compiled by the Texas Water Commission reveal that only 11 of 400 maquiladora plants operating along the Texas border reported returning waste to the United States in 1987. A year later, 90 maquiladoras filed such reports.

The Border Ecology Project reported that although substantial amounts of hazardous waste are supposedly being shipped from Agua Prieta plants back to the United States, no reports of such shipments have been recorded at the border.

The San Francisco Chronicle reported that approximately 100 maquiladoras operated in Mexicali in 1986. But records of EPA Region 9 in California show that only two filed notice that they sent hazardous wastes back to the United States that year.

Why the discrepancy between the amount of waste being generated and the amount reported as being returned to the United States for proper disposal?

Inadequate Tracking

Although United States regulations require tracking through manifests, many wastes may cross the border unrecorded in either direction. The two countries have different definitions of waste and their statutes and regulations often are inconsistent.

Roger Chacon the technical vice president of an El Paso waste storage and transportation firm, agrees that some waste is probably being dumped. He believes that inadequate reporting is also part of the problem. Chacon said his company alone transported hazardous waste to United States dump sites for at least 35 companies in 1987. TWC figures, however, showed only 11 companies returning waste during that same year. Chacon reports transporting waste for 80 of an estimated 362 El Paso maquiladoras in 1988, and Emilio

Bruna, owner of IESCO, a consulting and transportation firm for maquiladora operators, reports handling wastes for an additional 30 maquiladoras.

Another problem is with Customs. Hector Villa of the TWC states that Customs in El Paso does not always check for the manifests required from trucks carrying hazardous waste. On June 30, 1988, the TWC stopped all trucks going both ways across the border and found many Mexican waste haulers entering the United States without proper manifests.

Loopholes for Companies Buying Raw Materials in Mexico

Loopholes make it possible for United States-run maquiladoras to buy raw materials in Mexico, without having to return the waste to the United States for disposal. It is not clear what rule applies if a company uses some hazardous materials from both countries and they end up in the same waste stream.

Waste "Donations" to Charities

Mexican law permits the "donation" of hazardous wastes to charitable organizations which then sell them to recyclers. Although this option isn't supposed to apply to the maquiladoras, it is not known how Mexican agencies or waste-producing companies interpret this regulation.

Exemptions for Waste Being Recycled

It appears that some maquiladoras invoke the recycling provision for some solvents which are actually being dumped or disposed of in Mexican landfills. There is an incentive for not returning solvents to the United States, since tighter RCRA regulations now require treatment and prohibit the less expensive landfill disposal. Nonetheless, the residue from recycled material is still supposed to be disposed of in the United States

Environmental engineer Franco says some companies have found a way of circumventing the requirement that solvent residues be returned to the United States. He offers this example: "A maquiladora buys trichloroethylene (TCE) from the United States. It is used to clean some products in the Mexican plant and is now a waste product. The company returns it to the United States and sells it back to a Mexican solvent recycling company which, in turn, takes it back to Mexico to recycle at a lower cost than in the United States. The remaining residue is now Mexican waste and can be disposed of in that country.

TWC district manager Lockey visited one of the growing number of recycling facilities in Mexico and found conditions which would not meet United States requirements under RCRA. The company—Quimica Fortek in Chihuahua—had no safety training, inadequate safety equipment for workers, and chemical spillage outside its facility. It is believed many recycling operations know little about what they are handling or how to operate such a facility properly.

Confusion About the Definition of Hazardous Waste

Most maquiladoras don't even know what wastes Mexico regulates as hazardous. The Mexican government didn't develop such a list until 1987 and is still trying to bring it into line with United States standards.

Dumping of Hazardous Wastes

There is widespread suspicion that some significant dumping may be occurring—into the Rio Grande, the New River, down drain pipes, out in rural areas, or on company property. Some companies give their waste to haulers and don't ask questions about its destination.

Here are some of the concerns:

- The San Francisco Examiner reported concerns that some Mexicali maquiladoras were dumping industrial waste directly into underground pipes connecting most industries to the city sewer system. (Kistner, 1986).
- The California Regional Water Quality Control Board can't formally inspect sites in Mexico, so it has no way of knowing what dumping or contamination may be occurring.
- Environmental engineer Franco believes some plant operators sell drums of waste to small-time operators who dump the chemicals in the middle of the desert or in someone's backyard. Franco suspects other companies mix hazardous waste with regular trash and dispose of it as nonhazardous waste. (Pinkerton, 1988).

Companies give the waste to their haulers and don't ask questions.

Stockpiling Waste on Company Property

Considerable waste is being stored on-site because Mexico has no 90-day accumulation rule similar to the one in the United States. TWC's Lockey reports seeing layer upon layer of barrels containing waste stored on the property of a Juarez maquiladora. The study by El Colegio de la Fronteria Norte states: "Many companies have been storing dangerous waste in drums inside their assembly plants," it says, and "once they run out of space, they will get rid of these containers on clandestine disposal sites." (Juffer, 1988).

However, the study concedes there are no reliable estimates on the volume of waste being discharged by maquiladora plants. Due for release shortly, the study will point not so much to documented cases of dumping, but to the lack of adequate waste disposal sites in Mexico and the lack of reporting of proper disposal as indicators that a lot of waste is being mishandled.

Dumping Incidents

While the full extent of the problem can't be determined, these examples provide reason for serious concern:

- The San Francisco Examiner blames United States-owned maquiladoras for turning California's New River into "one of the dirtiest in the United States." (Kistner, 1986).

• The Examiner also reported that in 1986, Chromizing—which produces gas turbines and is a subsidiary of a California company—had a permit to send aluminum oxide and fluoride waste to an industrial dump 20 miles southwest of Mexicali. The dump site was finally closed by Mexican authorities because it was littered with chemical barrels, hospital waste, oily sludge and dog carcasses and threatened the Laguna Salada, a desert lake fed by drainage from the Colorado River.

• In 1987, a huge mountain of plastic bags dumped illegally on Mexican land by a subsidiary of Parker Hannifin Corp. of Cleveland was discovered to be the source of two years of clogging pumps that served a waterfowl area in the Audubon's Sabal Palms Sanctuary in Texas. The dump was mysteriously set on fire 24 hours after the Ohio company promised to clear away the tons of dumped plastics. Faced with concerns about air exposure from the toxics released by the burning plastics, the runoff of burned materials into the river, and the threat to marine life, the company cleaned up the remains from the fire.

• In January 1987, Matamoros newspapers reported that 12 maquiladoras had been fined for dumping contaminated water into canals leading to the Rio Grande. Mexican officials refused to provide information on the fines, saying only that the companies may have been "warned" to end the practice.

• The sale of recycled chemical drums from the maquiladoras is rampant in Mexico. They are sold openly in Juarez and end up in areas cluttered with makeshift shacks where residents use them to store water for washing and drinking.

• In early 1988, a General Motors subsidiary was discovered dumping hundreds of barrels of toxics at a desert waste site less than two miles from Matamoros's most popular recreational beach. Mexican authorities said the site is for non-toxic waste and that the GM subsidiary received permits limited to such non-contaminants as plastic and rubber. (Vindell & Reinert, 1988).

• Many United States companies are sending wastes to dumps in Mexico because it's cheaper than paying for proper disposal or treatment in this country. Texas Water Commission records reported that groundwater supplies are limited—in both quantity and quality—throughout much of the Rio Grande Valley, leading to increased competition between agricultural and municipal interests for a limited amount of surface water.

Areas with industries sitting atop shallow water tables risk losing future water supplies to contamination. Increased depletion of the Rio Grande will lead to more concentration of toxic material and a higher risk of aquifer contamination.

III. Risks to Water Supplies

As Maquiladoras grow, so grows the waste in the Rio Grande.

Testing for Toxics in the Rio Grande

Testing along the Rio Grande for industrial contaminants is almost nonexistent. The Austin American-Statesman reported that United States and Mexican officials and ecologists are unaware of any surface water studies on chemical contamination.

In 1988, the Texas Water Commission found significant levels of copper, selenium and mercury in the tissue of fish pulled from the Rio Grande near Laredo, Tex. But the absence of any earlier data made it impossible to determine whether the problem is due to industrial discharges or runoff from mining activities.

The situation is more acute in Nuevo Laredo, Mexico, which withdraws its drinking water below the point where the city discharges its sewage into the Rio Grande. J. R. Mathis, head of the Laredo Water and Sewage Department, believes Nuevo Laredo treats at the most 50 to 60 percent of its water. The remainder bypasses the inadequate treatment facility and recontaminates the entire supply on which residents depend for cooking, bathing and washing as well as drinking.

Mathis believes there is no testing in this part of Mexico for industrial contaminants in drinking water. Where Mexican cities dump sewage into the Rio Grande, there is also concern about industrial wastes that might enter sewage lines. San Ygnacio and Zapata cities south of Nuevo Laredo's discharge points and north of Falcon Lake where pollutants are further diluted may also receive water polluted with high levels of industrial contaminants.

Each year, the Texas Department of Health (TDH) is responsible for testing treated water from public supplies. In 1987, TDH tested all water systems with over 10,000 connections and in 1989 will test systems with over 3,300 connections. Larry Mitchell with TDH states that, thus far, industrial chemicals have not been discovered in the treated water. Since this testing is post-treatment, it provides no information on what might be present prior to treatment.

Bob Ybarra, United States director for the International Boundary and Water Control Committee, reports that Juarez treats its sewage in ponds and then uses the water for agriculture. So the major risks from bacterial and industrial contaminants may be to the workers in the fields and consumers in both Mexico and the United States who eat foods grown in these areas. Most of the agricultural runoff goes into interior floodway areas, posing a risk to groundwater.

With the real extent of industrial contamination in the Rio Grande unknown, the major concern on the United States side was expressed this way by the Laredo Water and Sewage Department's J. R. Mathis: "As maquiladoras increase in number and production, we will get toxic waste in the river which we can't treat out and which is detrimental to the human system."

Testing for Human Wastes in the Rio Grande

Testing in Texas has been primarily for contaminants from human waste. The TWC, International Water and Boundary Control, and Mexican officials coordinate some testing at 20 points along the river. They test for fecal coliform, ph content, chlorides, sulfates and dissolved solids. Extensive sampling conducted in and south of Laredo is for human waste indicators such as fecal coliform. Both the TWC and the Laredo Water and Sewage Department report very high fecal coliform levels, especially south of the 14 points at which Nuevo Laredo dumps raw sewage.

With growth in Nuevo Laredo, the daily dumping of raw sewage increased from 20 million gallons in 1984 to 25 million gallons currently. The results of increased sewage dumping are obvious when comparing the average bacteria count which is in the hundreds north of Nuevo Laredo's discharge and in the hundreds of thousands south of the last discharge point. Mathis says the levels of bacteria along some points between Nuevo Laredo and Lake Falcon are so high that it makes the lake "one of the largest sewage ponds in the United States" One local resident expressed concern about the increased amounts of chlorine which might be in local drinking water due to the need to treat for increasing levels of fecal contamination.

Franco states that in Juarez there is no sewage treatment system for its growing population, so waste used in the plants goes into a canal that is used for irrigating crops. (Pinkerton, 1988.) Although the raw sewage dumped into the canals is not supposed to be used to irrigate vegetables, no one really knows where it goes.

Dr. Irene Cech, a professor of environmental science and hydrology at the University of Texas, describes a study of the hundreds of wells which have been drilled overnight by the Mexican government in response to rapid growth in Juarez. The study revealed that all wells tested were contaminated with bacterial pollution which had leached through the porous soil from the drainage ditches.

Rio Grande Drinking Water Supplies and Cancer Rates

A study begun in 1985 may someday show a definite link between the drinking of Rio Grande water and high cancer rates. Cech noted that to date, 33 counties —all of which get their drinking water from the river—show statistically higher rates of liver and gall bladder cancer than the national average. In three counties which do not get their water from the Rio Grande, the rates are not abnormally high.

Cech stresses that a number of concerns have been raised about the Texas Department of Health's tests of public water supplies:

- Testing doesn't cover all industrial chemicals.
- State labs are overloaded, so some testing may be inaccurate.
- Many people living along the Rio Grande don't use public drinking water supplies or live in small communities where tests are not being made.
- Individual chemicals may be found at levels below the limits set by the Safe Drinking Water Act, but the combination of such chemicals may cause unanticipated damage to humans.
- Some testing may take place at times when contaminant levels in public water supplies may be lower than normal.

Juarez waste goes into the canals for irrigating crops.

Findings in Arizona and California

Border Ecology Project reports on tests which have shown elevated levels of toxic chemicals near the Maquiladora Industrial Park in Nogalas. Water samples from four Aqua Prieta drinking wells and a section of the Aqua Prieta River show the presence of some chemicals in drinking water and sewage. To obtain more complete details, it has been recommended that monitoring wells be placed closer to industrial sources in Nogalas and Aqua Prieta. Experts warn that the aquifer may already be contaminated, since its pumps are located hundreds of feet below the surface and at some distance from the current source of contamination.

Testing of the New River where it enters California shows the presence of more than 100 industrial chemicals. In 1986, the San Francisco Examiner reported extensive contamination of the river which flows through California's lettuce belt and into the Salton Sea, the state's largest lake. The newspaper quoted an EPA official as saying that the New River "contains every disease known in the Western Hemisphere." (Kay, 1986).

In another article, the San Francisco Examiner reported that maquiladoras with close ties to United States corporations are contributing to the problem, including:

- Fabrica de Papel San Francisco, a paper recycling plant, was suspected by United States environmental officials of discharging high levels of sulfides and pesticides. It is 49 percent owned by a subsidiary of San Francisco-based Crown Zellerbach.
- Quimica Organica has been identified by both United States and Mexican officials as one of the worst polluters. At one time it was owned by B.F. Goodrich Co., which produced pesticides and other toxic chemicals at the maquiladora. Although no longer owned by a United States company, the plant sells 40 percent of its products to American firms, with Uniroyal as its largest buyer.

Every known disease can be found in the New River.

California has been considering a $150-million bond issue to finance cleaning up sewage and toxics dumped on the Mexican side of the border. An official report put it this way:

"To bring the New River into full compliance with the standards set forth in...the Mexican-American Water Treaty will predictably be a costly process. Much of these costs upon government budgets could be averted if the Mexican government would undertake vigorous regulatory actions against the industrial dischargers." (Gruenberg, Calif. Regional Water Quality Control Board 1983).

IV. Communities at Risk

The Danger of Hazardous Materials Accidents

"The potential for an incident involving hazardous materials in Cameron County is high, (and) the majority of what is brought over from Mexico by truck or rail is unknown. It is only a matter of time before a Mexican truck carrying hazardous materials overturns and seriously contaminates a populated area."

That's the conclusion reached in a 1988 study by the LBJ School at the University of Texas in Austin. (Hadden, 1988).

The officer was writing a ticket when some unknown liquid spewed all over him.

There are two bridge crossings—heavily traveled by both pedestrians and vehicles—between Brownsville and Matamoros. They lie close to densely populated business districts on both sides of the border. To reduce the risk associated with the transport of hazardous material, consideration is being given to building a third bridge away from populated areas.

There is concern about transporting hazardous materials through El Paso. Primary routes include an interstate highway and two rail lines that run through the center of the city. The railway tracks are in cement ditches below street level and would be difficult to reach in case of an accident. Because of the close proximity of El Paso and Juarez, a serious incident in either could have major implications for the other.

The Transportation of Hazardous Materials by Mexican Truckers

American trucks can't enter Mexico to deliver or pick up hazardous materials, but Mexican trucks are free to enter the United States. According to the LBJ School study, "The Mexican trucks do not display the required placards and do not abide by the federal weight limitations." Jackie Lockett with the Cameron County LEPC believes that the Mexican transporters generally overload their trucks.

Ben Reyna of the Brownsville Police Department says his department writes tickets "galore" when inspecting Mexican trucks during roadblocks. They commonly write-up five to six tickets for an 18-wheeler and sometimes as many as 40. He cites such common problems as violations on placarding, manifests, weight, and tail and brake lights. Reyna describes one incident in which he was standing behind a Mexican truck writing up tickets when a container valve broke, spewing some unknown black liquid over him. He states that most violations involve Mexican trucks. The department is forced to detain Mexican drivers until they see a judge and pay their fine in order to guarantee payment.

The Border Ecology Project reports that one United States Customs agent recently stopped a truck hauling loosely packed barrels of 1-1-1 trichlorethane to a maquiladora in Aqua Prieta and arranged through Arizona's Department of Public Safety to cite the driver for a DOT violation.

Chemicals of Concern

Under prodding by Cameron County residents and Members of Congress, Customs conducted a one-time survey of chemicals imported from Mexico. More than 70 toxic materials including hydrogen fluoride and pentachlorophenol were logged as crossing the border in a 25-day period. But Customs wasn't familiar with chemical names, as illustrated by obvious misspellings and non-specific descriptions of the chemicals.

Hydrogen Fluoride

HF has been of extreme concern since 1986 studies showed it to be 100 times more dangerous than previously believed.

Says Fred Millar of the Environmental Policy Institute: "If there is any chemical in the United States that poses a threat of a Bhopal disaster, it's probably hydrogen fluoride." He contends that it can be replaced by much safer alternatives and has been substituted by at least 60 refineries in the United States. In 1987, a release of HF from the Marathon Oil Co. plant in Texas City spread a toxic cloud over the city, forced evacuation of 3,000 residents and sent hundreds of people to the hospital. Millar emphasizes that if it had been a release of liquid instead of vapor, "thousands would likely have died." (Environmental Policy Institute, 1987).

American firms have close ties with two plants that produce hydrofluoric acid in Mexico. Du Pont owns a 30-percent interest in Quimica Fluor in Matamoros and a Du Pont subsidiary buys 85 percent of its product. Allied Chemicals owns a 49-percent share of Quimobasico in Monterrey.

Quimica produces 100 million pounds of HF each year at a plant along the expanding edge of Matamoros. The small community of Ejido Guadalupe, with 2,000 residents, is about one block upwind from the plant, and housing is moving in the direction of the plant in response to the city's rapid growth. The plant is four miles from the center of Matamoros. Trains carrying raw chemicals and finished products move on tracks which start at the plant, cross a bridge which also carries cars and trucks, and runs along the west side of Brownsville, eight blocks from the center of that Texas community.

The 1986 studies indicate that the release of one-third of the contents of an unpressurized HF tank truck could produce a toxic cloud with a peak lethal effect as far as 4.4 miles downwind, and could be "immediately dangerous to life and health" as far away as 7.1 miles. (Environmental Policy Institute, 1987).

Residents of Ejido Guadalupe blame Quimica for a number of problems. Farmers say fumes have damaged crops and fruit trees and threaten their children's health.

Extremely high toxic levels have been found in all sorghum plants in a six-kilometer radius of the plant.

Farmers report that a release from the plant forced the evacuation of 3,000 people in 1986. Quimica claims the most recent accident was in 1980. (Pinkerton, 1988).

Pentachlorophenol

This is a highly toxic wood preservative and a major cause of dioxin contamination in the environment. It is already banned in Sweden and West Germany.

At the time EPA was negotiating dioxin limits with Idacon in Houston and Vulcan Chemicals in Wichita, a penta plant—Productos de Preservacion —was being built in Mexico under the maquiladora program's tax advantage.

Idacon is connected with the maquiladora, and Vulcan is the last remaining United States producer of penta, whose waste is listed by EPA as "acutely hazardous." Vulcan currently is licensed to accept dioxin-contaminated sludge. It is not known how Productos de Preservacion disposes of its penta waste. EPA requires Vulcan to conduct monthly tests of dioxin levels. But no one knows if the maquiladora conducts similar tests. As Greenpeace points out:

"United States companies operating in Mexico frequently enjoy obvious advantages: lower labor costs, tax savings and avoidance of more stringent United States environmental regulations. It would appear that all three advantages are applicable to Idacon's new plant producing penta in Mexico." (Sloan and Perivier, 1988).

Transportation and storage of penta products along the border include rail transport of Pentasolve, a raw material, to a Brownsville transfer terminal where it's stored in two 65,000-gallon tanks. Four tank trucks, each carrying 5,000 gallons of Pentasolve, transport loads to the Matamoros production plant daily. They return to Brownsville each day with 20,000 gallons of finished product which goes directly into waiting rail cars or storage tanks. As much as 15,000 gallons a day of a hydrochloric acid byproduct also is sent from Matamoros to the terminal. (Greenpeace, 1987).

Productos de Preservacion has been responsible for two hydrochloric spills according to Lockett of Cameron County. One occurred at a transfer plant in Brownsville as the acid was being removed from a rail car. Chemtrec —the industry-funded response network—was notified, but the wrong chemical was reported. Shortly before Chemtrec employees arrived to deal with what they were told was a "hydrofluoric" spill, they were given the correct chemical name. The second case involved the collapse of a storage tank holding hydrochloric acid at the Brownsville port, spilling the acid onto the soil and releasing a small toxic cloud into the air. Although relatively minor, these spills illustrate the potential for accidents more severe in nature.

Lack of Resources, Information and Coordination

The LBJ School study pointed to the inadequacy of local resources for emergency response. Cameron County is considering guidelines for training emergency personnel, but doesn't have the funds to do the job. The Brownsville fire department and emergency medical service do not require training for dealing with hazardous materials. And there is little specialized equipment to respond to accidents. (Hadden, 1988).

In a recent mock accident in Cameron County, the fire department received a call for assistance for an incident involving a "radioactive material" in a vehicle in downtown Brownsville. It took 20 minutes for a response unit to reach the scene.

Cameron County has a local emergency response committee to develop plans and implement community right-to-know provisions. But funds aren't available to help carry out the program, the committee has been plagued by inadequate cooperation from the United States Customs Service, and is hampered by a lack of coordination with police or fire authorities across the border.

Information on chemicals being transported and stored is sorely lacking. United States regulations on providing chemical lists and transporting hazardous materials do not apply to Mexico, even though an accident there could seriously impact the United States side. Mexican trucks traveling through Texas present an even more direct risk.

United States Customs is supposed to receive manifest copies from Mexican trucks crossing into the United States. Manifests are then to be sent to EPA's National Enforcement Investigation Center in Denver. According to one reporter, agents who are supposed to verify manifests against shipments have been instructed by Customs officials not to open containers or otherwise check the contents of trucks in order to protect their own safety. (Bonivita, 1987). Reyna states that Brownsville police investigations during roadblocks reveal that a majority of drivers of Mexican trucks do not have any kind of manifest or any idea of what they are carrying.

Inspectors told not to risk opening those containers.

Border Ecology Project researchers argue that, "to some extent, all these agreements and responsibilities seem to be in vain." They point to interviews at the Douglas/Aqua Prieta area and Nogalas, when two Customs officials said they had never seen shipments of hazardous waste cross the border, while one said that he may have seen a shipment cross, but it was years ago. (Kamp and Gregory, 1988).

EPA's efforts to improve the availability of such information included plans to develop a joint inventory of hazardous chemicals within 10 kilometers of the border. EPA has begun compiling such inventories for the sister-city response plans for Calexico and Mexicali. At a more local level, the

Cameron County LEPC has begun working with the Maquiladora Association and hopes to encourage maquiladoras to voluntarily provide chemical inventories vital to emergency planning.

U.S. worries don't stop the building of incinerators.

Project researchers have proposed a single communications code allowing United States and Mexican firms handling hazardous materials to record their use in border areas. Mexican and United States Customs officials must become the inspectors and record-keepers for all hazardous materials in border areas. (Kamp and Gregory, 1988).

Air Pollution

Jim Yarbrough, an EPA meteorologist, has been involved in an on-going agreement between Mexico and the United States on air pollution. There are deep concerns about the emission of solvents into the air by the growing number of electronics plants in the maquiladora complex.

Yarbrough is concerned that the solvents will contribute to the greenhouse effect. Hydrofluoric acid is widely used to make chlorofluorcarbons which are also blamed for contributing to the destruction of the ozone.

Mexico has provided EPA with an initial inventory of six types of pollutants being emitted from plants in Juarez and Tijuana. But they are defined only in the most general of terms, and there is no current way of knowing what emissions Mexico is measuring or how sophisticated are the measurement techniques.

There is also a potential for further environmental damage as a result of burning at landfills. The one at Aqua Prieta contains unknown amounts and types of maquiladora waste, and is adding to the existing pollution over Aqua Prieta and Douglas on the United States side. (Kamp and Gregory, 1988). Brownsville authorities worry about proposed construction of a large incinerator to serve an entire maquiladora park in Matamoros. (Lockett, 1988). And according to EPA's Allan Davis in Dallas, there are plans for seven more hazardous waste incinerators in Mexico, four of them in the border area where the maquiladoras are clustered.

V. Maquiladora Workers at Risk

The maquiladora workforce—composed mostly of young women and girls—is particularly at risk because of the lack of health and safety protections on the job. The problem takes many forms, including:

- Denial of information on chemicals used in the workplace.
- Machinery that lacks safeguards to prevent severe injury.
- Lack of protective clothing and equipment.
- Intimidation through threats of job loss or wage cuts.
- Firing of pregnant women.

PCBs turn the workers' hands black.

- Refusal to hire women with children or women who are over a certain age.

An examination of these harsh and unfair conditions contrasts sharply with the myth being perpetuated by the maquiladoras that adequate attention is paid to worker health and safety.

Lack of Protection for Mother and Fetus

The most dramatic danger from chemical exposure in maquiladora plants has been to unborn children.

A group of mild to profoundly retarded children, all of whom were exposed as fetuses when their mothers worked at the United States-owned Mallory Capacitators plant 10 to 14 years ago, now attend a special education school in Matamoros.

Dr. Isabel de la Alfonso, the school's director, has identified 22 children she believes suffered damage due to their mothers' exposure to PCBs. A separate study shows there are 10 more former Mallory workers whose children have similar damage. (Juffer, 1988).

Women's hands were exposed directly to PCBs. The chemical often splashed onto their arms and faces. They suffered rashes, their fingernails turned black, and they experienced nausea, headaches and fainting while at the plant.

Mallory was swallowed up in a corporate takeover after closing its Matamoros plant and has been through several buyouts or mergers since. This left a corporate paper trail, but no trace of a responsible party and no way to find out what range of chemicals was used at the facility. (Beebe, 1987).

Mexico's General Law on Health and Safety in the Workplace requires that when the health of pregnant women or their fetuses is endangered, they are to be placed in other jobs. But the rule is commonly violated in the maquiladoras. And without adequate testing equipment, exposures may occur in work areas thought to be relatively safe.

Reports by Maquiladora Workers

The following is based on visits with maquiladora workers at their homes in Matamoros on September 8, 1988 and on interviews with Reynosa maquiladora workers by McAllen Monitor reporters Barbara King and Arturo Longoria in Harlingen in June 1987. All names have been changed to protect the persons interviewed.

- Elena, 23, has been working at NECO, an electrical components manufacturer, and a subsidiary

of Pittsburgh-based Allegheny International, Inc. She works with strong chemicals, but doesn't know which ones. Her symptoms include breathing difficulties, nausea, headaches, stomach problems, depression and emotional changes. When away from the plant for a few days, her symptoms disappear, only to return when she goes back to work. She is allowed to see a doctor at company expense, but it has to be the one chosen by management. The doctor has diagnosed her problems as "psychiatric."

• Another NECO worker reports pervasive smells of strong chemicals which she believes are solvents. She worked in the plant while pregnant and says that pregnant women were forced to continue working with the chemicals.

• Patricia first worked at Deltronics, a subsidiary of General Motors Corp. She says lots of workers became sick and many finally quit when they were refused masks while working with thinners Exposure produced such symptoms as drugged or intoxicated behavior and red, irritated eyes.

She later worked at Condura, a subsidiary of Eaton Corp. of Cleveland. She says women working with solvents and resin fluxes were not provided with gloves and that only two pairs of goggles were provided on an assembly line where 50 women solder electronic parts. She is no longer working because of an injury which severely disfigured her thumb. Although Condura claims it has a nurse on staff at all times, none was present when she was injured, and fellow workers used a first aid kit to provide protection.

• With 8,500 workers in three plants, Zenith is the largest maquiladora in Reynosa. The company claims its plants voluntarily meet OSHA standards. But workers disagree and express concern about exposure to methylene chloride, the lack of fume extractors, and the handling of silicon without gloves or goggles.

• Maria, 35, worked at Zenith's Partes de Television de Reynosa plant. For ten years, she used soldering irons and breathed lead fumes and was exposed to hazardous chemicals. She has arthritic-like symptoms and can no longer work. Doctors blame her condition on working with chemicals and she receives monthly social security checks Another worker reported dangers from soldering fumes in the Zenith plant because managers resisted installing individual extractors in all areas of the factory to draw off toxic fumes.

• Although the maquiladoras hire mostly young women, the Brownsville Rubber Co., a subsidiary of Parker Hannifin of Cleveland, is an exception. It hires men almost exclusively because heavy lifting is required and most work is done near hot ovens. Burns are commonplace, and many workers have lost fingers in machinery.

The Lack of Data on the Impact of Workplace Chemicals

Few studies have been conducted on health and safety conditions in the maquiladoras, and the extent of serious plant accidents tends to remain unknown, unless the effect is dramatic enough to be reported in the media.

In 1980, for example, the press reported that 35 workers at a Sylvania subsidiary were hospitalized in Juarez, suffering from severe nausea, vomiting and loss of consciousness following widespread exposure to fumes from a malfunctioning vat containing a carcinogen. The next day, company and government officials claimed the workers were merely suffering from "collective psychosis of a an imaginary ailment." (Erb/El Fonterrizo, 1980).

A similar incident of mass exposure occurred in Aqua Prieta at Equipo Aotomotriz, a subsidiary of Gateway Industries of Hazel Crest, Ill. A chemical release sent a number of workers to the hospital. (Kamp and Gregory, 1988).

Two pairs of goggles were issued to the 50 women.

In 1982, at a General Motors subsidiary called Rimir, a worker died following exposure to chemicals in a huge vat he was cleaning. Another worker reported seeing the man slip and lose his protective mask, but plant managers refused to provide any details to police or the press.

Dr. Monica Jasis, a researcher with El Colegio de la Frontera Norte, reported a high incidence of health problems among female workers in Tijuana plants. These included illness from inhaling lead fumes during soldering and eye problems caused by long hours bonding fine wires to circuit boards while peering through microscopes. She also indentified heart and blood pressure problems related to stress, and expressed concern about exposure to a wide range of toxic chemicals.

Jasis said that opposition from maquiladora owners and the refusal of government officials to respond to questions put a halt to her government-funded studies. (Erb).

Worker Initiatives to Improve Conditions

A few maquiladoras have taken steps to improve conditions, but only when they've been forced to do so.

• Kemet, a Union Carbide subsidiary, lowered exposure levels as a result of years of activism by workers and the pressure which a church group brought to bear on the firm's corporate headquarters in the United States. Others report that the change can be traced to Union Carbide's actions at all its plants in the wake of its Bhopal chemical accident which killed over 2,800 people and injured 200,000 more. A health and safety commission of 16 people—composed equally of management and worker representatives—has been set up at Kemet. Mexican law requires such commissions at all maquiladoras, but many of these plants simply ignore the regulation.

• Under pressure from workers, P.E.A. Industrial, a subsidiary of ITT Corp., made improvements at its Rio Bravo plant. It has installed extractors and other safety equipment and has assigned one worker on each shift to monitor health and safety. But it's reported that conditions remain bad at ITT's other plants in Torreon and Saltillo.

VI. An Unsettling Future

There is reason to be pessimistic about the environmental future along the United States-Mexican border because there appears to be no end in sight to the mushrooming of the maquiladora industry.

Henry King, director of the Small Business Institute at the University of Texas in El Paso, predicts a second maquiladora boom in Juarez that could dwarf the nearly 30-percent growth rate that took place in 1987.

U.S. companies don't seem much deterred.

There are reports that United States corporations may soon be allowed to own the land they currently are leasing in Mexico. This change could lure even more American firms across the border by promising them added control of their Mexican operations.

But the United States isn't the only target for Mexico's plan to expand the maquiladora complex. Continued devaluation of the peso could draw increasing numbers of companies to Mexico in search of cheaper labor. Japanese, Canadian and West German companies have already opened maquiladora plants, and firms in other countries are weighing similar action.

The problem comes down to this:

The maquiladoras are already generating waste at a pace that exceeds Mexico's capacity to handle it. And the situation will deteriorate further as new firms enter the country.

Experts predict that electronics will be the fastest-growing maquiladora industry. More companies are moving toward finishing products which require cleaning, priming and painting. Companies involved in chemical production have also increased.

A growing trend toward more sophisticated and complex production processes—as opposed to the light-industry, sub-assembly operations that dominated the maquiladora industry in the past—may result in more use of hazardous substances and the additional production of toxic waste.

Juarez is the classic example of what's happening:

- It already has over 300 maquiladora plants.
- Its population has skyrocketed from 700,000 in 1980 to 1.2 million today.
- It has no sewage treatment system and no nearby state- of-the-art hazardous waste disposal facilities.

Additional stresses on border towns like Juarez will result in increased sewage problems and illegal toxic waste disposal. As the need for waste facilities increase and as pressure mounts to stop contaminating both sides of the border, there are certain to be new proposals to establish facilities in Mexico that would be inadequate to the task and that could, therefore, pose added health, safety and environmental dangers in both the United States and Mexico.

Some proposals have already been opposed by border residents.

- Two years ago, General Motors considered building a waste incinerator in Matamoros to serve an entire industrial park. Brownsville residents objected to burning waste near their border, just as residents in communities across the United States now question whether incineration is a safe alternative to land disposal.
- In 1987, an Arizona-based group, G Systems, Inc., wanted to start a toxic waste site in Naco, Sonora. But Mexican authorities refused to grant permission for the dump, and enough publicity was generated in Arizona to raise a groundswell of opposition to any such future plans. (Border Ecology Project).

Meanwhile, the failure of the Mexican government to develop adequate environmental safeguards means that disposal of maquiladora waste in the United States—particularly in the border states of Texas, Arizona and California—will intensify.

Citizen groups throughout the United States are already actively battling new or expanded landfill sitings and hazardous waste incinerators for their own wastes. So it's likely that, particularly throughout the border region, American citizens will not take kindly to the thought of accepting waste from United States-owned maquiladoras that have exported jobs out of this country.

But American companies don't seem deterred. They see increasing opportunity to capitalize on cheap labor and to escape stringent health, safety and environmental regulations in this country by shifting operations to Mexico.

While more and more United States corporations operating maquiladoras continue to ignore the consequences of the environmental damage they are causing to workers, their families, and the fragile ecosystem on both sides of the border, both countries must undertake a massive effort to address this alarming situation.

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PREPARED STATEMENT OF DONALD W. EISS

Mr. Chairman, I appreciate the opportunity to appear before you today to express USTR's reaction to S. 2887, the bill recently introduced by senator Lautenberg to amend the Caribbean Basin Economic Recovery Act, the generalized system of preferences, and Section 301 of the Trade Act of 1974 with respect to foreign environmental policies.

The effectiveness of domestic and international environmental standards is of growing concern around the world as countries turn increasing attention to the risks associated with a wide variety of environmental hazards. The hazards clearly differ from country to country and nations are making their own risk management decisions as to how to deal with the hazards. The problems themselves differ as to their national, regional or global origins and impact. Nevertheless, governments increasingly recognize the international character of the problems and are acting to put our national responses into a more cohesive international analytical and policy framework.

These efforts range from technical exchanges so that countries can individually make more informed decisions to the negotiation of new international rules of the road. For example, the United States participated in the recent negotiations leading to international agreement on dealing with ozone depleting chemicals. Although USTR does not have the statutory responsibility for health, safety or environmental protection and therefore is not equipped to make judgments as to proper levels of protection in such areas, USTR has strongly supported efforts at achieving international consistency wherever appropriate in order to avoid the creation of unnecessary technical barriers to trade. However, even agencies which do have such authorities and competence, such as the Environmental Protection Agency (EPA) inform us of the immense complexities involved in judgments on the effectiveness of pollution abatement standards of other countries. Even more difficult are judgments regarding compliance and enforcement of those standards.

This is one important reason that emphasis is being placed on international cooperation to deal with pollution problems through bilateral mechanisms, and regional and international organizations such as the Pan American Health Organization (PAHO) the United Nations Environment Program (UNEP) the Food and Agricultural Organization (FAO) and the Organization for Economic Cooperation and Development (OECD). Indeed, the OECD is giving particular visibility to this issue consistent with its long-standing attention to the economic implications of environmental concerns. The Final Communique of the most recent OECD Council meeting at ministerial level noted that ". . . improving environmental conditions and promoting sustainable development have become increasingly fundamental objectives. Environmental and economic considerations need to be integrated in the decisions of all segments of society—governments, industry and individuals. Many of the problems are of a transborder, or even a global nature, requiring that all countries cooperate in solving these issues. Member Countries fully recognize their special responsibility in the international effort to seek solutions to global environment problems. Other countries, including those of Central and Eastern Europe, as well as of the developing world, seem increasingly ready to play an active role." An OECD Environment Ministers Meeting is scheduled for next year with the theme of "Integration of Environmental and Economic Drecision-making."

The critical importance of international environmental cooperation was a principal conclusion of the Houston Economic Declaration issued by the Heads of Government of the seven major industrial democracies and the President of the Commission of the European Communities on July 11, 1990. The Declaration stated that "cooperation between developed and developing countries is essential to the resolution of global environmental problems." It recognized that developing countries will benefit from increased financial and technological assistance to help them resolve environmental problems, which are aggravated by poverty and underdevelopment and called for the strengthening of multilateral development bank programs to provide greater *protection* for the environment.

We believe that the bill under discussion today must be evaluated in the light of these and many other *cooperative* international initiatives. A premature turn by the United States from this essentially cooperative approach to a more unilateral one as seems to be contemplated in this bill, brings to mind a number of immediate issues. First and foremost is the question of the applicable standard which equates to the "effectiveness" standard of the bill. A brief review of the situation in the United States illustrates the issue. Federal environmental standards are not always the most stringent within the United States. States adopt those standards to reflect the circumstances peculiar to the region and their own risk assessment. For example,

because persistent atmosphere conditions over southern California lead to degraded and harmful air quality, more stringent air quality controls than in some other areas in the United States have been adopted. We should not conclude that other states or the Federal Government have *inadequate* standards because they do not mirror California's. Should the conclusion be different simply because the government is that of another nation such as Greenland or Fiji?

To what standards are we to hold governments of other nations in applying the proposed unilateral tools? One would have to assume that the standard would be that applied by the United States as reflective of *our* collective, current assessment of what is adequate in the environmental area. As my example indicates, however, there is not even such a consensus within the United states. Given the current state of flux internationally, the adoption of proposals such as contained in this bill would likely have the counterproductive result of detracting from the cooperative development of international environmental standards to which all countries would have a commitment. Adoption of this bill would mark a significant shift from present United States policy which is to seek progress through international consensus based on sound scientific evidence.

I would also note that if the United States establishes the precedent of using trade laws to improve environmental standards in other countries, then other countries may do the same. Just as Federal environmental standards are not always the most stringent in the U.S., the United States does not set the most stringent standards in all cases in comparison with our trading partners. If the United States were to use the mechanism of our trade laws to attempt to force other nations to come up to a U.S. standard, then could we object if other countries were to do the same? For example, Japan and the Federal Republic of Germany enforce sulfur dioxide standards more stringent than those in the United States. In the production of polymers in Belgium the acceptable level of free monomers is much more stringent than in the United States. Other countries have noise and solid waste disposal standards more stringent than U.S. Federal standards. As it moves toward a single integrated market in 1992 the European Community is expected to adopt tighter ecological standards. Thus the United States needs to consider the logical consequences of setting the precedent of using national trade remedies to enforce on other countries unilaterally established levels of environmental protection.

The proposed bill would prevent the President from designating any country from receiving beneficiary status under GSP and CBI that does not have "effective pollution abatement and control standards." Punishing nations otherwise eligible for GSP and Caribbean Basin Economic Recovery Act treatment, by removing the financial benefits which they might receive from these programs could reduce the ability of such nations to establish the effective pollution and control standards which the bill seeks.

Mr. Chairman, where there are local health and environmental problems in developing countries it is very dangerous for the United States to impose its judgment as to what constitutes "effective" levels of protection to the residents and the environment of those sovereign nations. This becomes even more controversial when the situation within the United States is taken into account and when judgments regarding the adequacy of enforcement abroad are mandated. Where the pollution is of the sort affecting the global commons a multilateral solution is required. There are numerous international activities now under way or being considered to deal with such situations. It would be counterproductive to use statutes designed to promote economic development to impose U.S.-determined standards which could prove unnecessarily costly to many countries which are in the process of developing essential infrastructure. We therefore oppose this legislation.

In sum, Mr. Chairman, the issues posed by this hearing are complex. How we ensure that others join our effort to protect the environment so that U.S. industry is not uniquely burdened is of enormous interest. The issues of how to mesh our desire for environmental protection and for improved U.S. competitiveness deserves further attention and careful analysis. USTR, EPA and other interested elements of the Administration will be working on this issue in the weeks and months ahead, and we look forward to further discussions with the Committee.

PREPARED STATEMENT OF SENATOR FRANK R. LAUTENBERG

Mr. Chairman, I want to thank you and Senator Bentsen for holding this hearing on "The Global Environmental Protection and Trade Equity Act," introduced by myself and Senators Pell, Kasten, and Dixon.

S. 2887 would encourage environmentally sound global economic development, and help minimize the competitive disadvantage U.S. companies face because of the cost of complying with U.S. environmental laws. It links benefits under the Caribbean Basin Initiative and the Generalized System of Preferences to the adoption and observance of effective natural resource protection and pollution and abatement control standards to protect air, water, and land. It makes the failure to adopt such standards an unfair trade practice under Section 301 of the Trade Act.

The U.S. Trade Representative, working with industry, environmental groups, and various embassies, will determine what an effective, generally observed environmental standard is. These determinations will be made in much the same way we decide, for GSP purposes, that a country is affording its workers internationally recognized workers' rights. In making such decisions, the U.S.T.R. will have ample guidance from many global conventions designed to address international environmental issues.

This legislation also provides built-in flexibility in applying its requirements. Despite a country's failure to enact or observe effective environmental laws, the President may grant CBI status if it is in our national security or economic interest to do so, and may grant GSP status if he determines it's in the national economic interest. Moreover, the U.S. Trade Representative can refuse to pursue a Section 301 case if the foreign country is trying to establish effective pollution standards, or if its existing practices are consistent with its level of economic development.

This legislation has been endorsed by the AFL-CIO, the United Steelworkers of America, the Communications Workers of America, the Sierra Club, the National Wildlife Federation, Greenpeace, the Environmental Defense Fund, Friends of the Earth, the Natural Resources Defense Council, and the Development GAP, a nonprofit group concerned with the Caribbean.

Mr. Chairman, a principal goal of S. 2887 is to encourage environmentally sound economic development. Pollution does not honor national borders. If Americans want to keep breathing clean air, drinking clean water, eating uncontaminated food and enjoying our forests and wildlife, we must exert global leadership on the environment.

The United States, by virtue of its trading position in the—world, can influence whether countries develop in an environmentally sound manner or one that degrades the environment. These choices are not abstract. Foreign pollution has already had a real and devastating impact on American lives. In California, pollution from Mexico has fouled an American river, closed down a 2½ mile stretch of beach for almost a decade, and driven away rare birds. It is poisoning a federally protected, 2500 acre salt-water estuary, only one of three in the U.S. Residents nearby have suffered plague-like proportions of cholera, hepatitis, dysentery and other life-threatening diseases.

The cause is the up to 12 million gallons a day of raw, untreated sewage dumped in Mexico into the Tijuana River which flows into California. Now, it's the most polluted river in America, thanks in large part to the Mexicans. Americans laws simply can't help us here.

The Tijuana River is just the tip of the iceberg. Up to 25 million gallons a day of raw sewage flows from the Mexican city of Nuevo Laredo into the Rio Grande River, which forms the border between Mexico and Texas. Near Mexicali, sewage and industrial wastes have severely contaminated the New River, which flows from Mexico to California's Salton Sea, a national wildlife refugee.

These cross-border effects of pollution are echoed all across Europe and Asia. Wind blowing from the Soviet Union carries with it almost half the total airborne pollutants found in Finland, giving new meaning to the term "ill wind." The severe pollution in Bitterfeld, East Germany, has not only sickened its own residents and poisoned East Germany's environment but has caused much of the pollution damage in Central and Western Europe.

What one country does to its own environment can also cause permanent, damaging changes to the global environment. According to Congressional Research Service, the burning and clearing of tropical forests in Southeast Asia, Africa, and Brazil has destroyed much biological diversity in the worlds' habitats. The fires have also contributed to the greenhouse effect and a potential shift in the world's climate.

Some may have concerns about the ability of developing countries to assume the financial burdens of protecting their environment. Certainly there may be considerable short term costs. But the long term costs of neglect are even greater. In the United States we learned the hard way about the costs of pollution. EPA estimates it will cost more than $18 billion to clean up just those Superfund hazardous waste sites now on the national priorities list. We must add to that the human cost. Developing countries that are seeking to industrialize can't afford these mistakes.

America is helping countries which want to protect their environment. The Support for Eastern European Democracy (SEED) law will provide $40 million for environmental initiatives in Poland and Hungary. A.I.D. plans to spend $470 million over the next two fiscal years in Brazil, Pakistan, the Philippines, Poland, and Zaire, among others, address global climate change. It's a beginning. But, we need to do more.

We need to include environmental criteria in the GSP, the CBI, and Section 301. Using our trade leverage to achieve important policy goals is something we already do. A country cannot qualify for GSP status if it has expropriated U.S property, failed to afford internationally recognized worker rights, or served as a terrorist sanctuary. It cannot receive CBI benefits if it lacks an extradition agreement with the U.S. or pirates U.S. television or movies. Just this year, we approved new legislation requiring CBI recipients to afford such worker rights to their people or lose their benefits. Under Section 301, it is an unfair trade practice for a country to deny workers the right of association or collective bargaining, to permit forced labor, or to fail to establish standards for minimum wages, work hours, and the occupational health and safety of workers.

We decided that these national policies were as important as economic development in GSP and CBI countries. Indeed, many of them address the very kind of economic development we want to promote in lesser developed nations—development built on respect of intellectual property and built with the labor of workers whose rights are protected. We should also seek development that's consistent with environmental protection. And just as cutting costs by exploiting workers is unfair trade under section 301, so is cutting costs by exploiting the environment.

Experience shows that using our trade laws to achieve important policy goals works. Once GSP was threatened, Indonesia, Singapore, Taiwan, Korea and Yugoslavia improved their protection of intellectual property rights. The threat of a super 301 case led Korea to ease conditions for foreign investment and to eliminate import bans and other protective conditions. Taiwan developed an action plan to open markets.

Mr. Chairman, S. 2887 also aims to help level the playing field for American businesses hurt in the marketplace by the cost of environmental compliance. Complying with U.S. environmental laws costs American industry money, while foreign producers build their economic success on the slag heap of an exploited environment. CRS estimates American industry spent $12.3 billion on pollution compliance in 1986, a figure certain to rise as a result of new environmental legislation. That's money our industry can't use to modernize factories, research and develop new products, or promote existing ones. It's money they must recoup by charging higher prices. In short, it's money they spend on protecting the environment, not on improving their competitive position in the world. Though it's money well spent, it leaves less for other things.

When foreign industry subjects its workers and citizens to pollution we require our industries to prevent—then American industry operates at a disadvantage. American industry loses sales because of higher costs, and American workers lose jobs, when industries move offshore, where environmental standards are lax. The carrots and sticks in this legislation will help assure that foreign governments which tolerate environmental degradatior do not reap economic benefits in our markets. By making the failure to adopt environmental standards an unfair trade practice under Section 301, we are encouraging our trading partners to do their part to protect the environment or pay the consequences.

Mr. Chairman, this bill does not force U.S. standards for clean air, water and land on developing countries. It would allow each country to determine for itself what sort of a pollution code best meets it needs, as long as that code is effective. Nor does past experience show that this legislation would cause retaliation from countries. We require GSP and CBS beneficiary countries to respect international worker rights and we define the failure to do so as an unfair trade practice under 301. Yet none of our trading partners have retaliated against the U.S. on these grounds.

Just as we have encouraged the adoption of other American values around the globe, we must encourage environmentally sound development. It's time that we put our trade laws to work for us in improving the environment. Because, to paraphrase an old saying, when it comes to the environment, it's a small world after all.

PREPARED STATEMENT OF SENATOR DANIEL PATRICK MOYNIHAN

Today is the first hearing before the Committee on Finance, on what will be a subject of growing concern to us. The convergence between environmental law and international trade law.

Over the last decades, numerous environmental treaties have been implemented that rely upon international trade restrictions for their enforcement. The title of one such treaty makes the point: the Convention on International Trade in Endangered Species. International Trade. Known as CITES, it is this 1973 treaty which prohibits the trade of wildlife threatened with extinction.

The most recent environmental treaty to control trade is the 1985 Vienna Convention for the Protection of the Ozone Layer, and its Montreal Protocol. The import and export of CFCs by member parties is banned, as is the trade in products containing CFCs and products made with processes that use them.

One of the great difficulties these environmental treaties is enforcement. Whether it is elephant ivory traded in violation of CITES, or whales taken in violation of the International Whaling Convention, international enforcement has been weak. The Montreal Protocol leaves open entirely the method for enforcement.

It is this weakness that has led many of us to urge unilateral action. In the 100th Congress, I introduced a bill to make actionable under Section 301 of the Trade Act of 1974, foreign country practices that diminish the effectiveness of international environmental agreements. I introduced the same bill, S. 261, on the first day of this Congress. Indeed the same concern of enforceability led the Senate Committee on Environment and Public Works to include in the Clean Air Act Amendments now in conference, language providing for the unilateral enforcement of the CFC trade prohibitions contained in the Montreal Protocol.

At the same time that environmental treaties are making use of trade restrictions, the General Agreement on Tariffs and Trade has also found itself confronting environmental issues. Some of these have involved the United States. Consider the U.S. complaint about Canadian regulations requiring Canadian fish to be processed in Canada. Canada claimed it was for conservation purposes.

Likewise, the United States has banned the import of small lobsters from Canada, again the rationale is conservation. Both of these actions were considered by dispute resolution panels, the first a GATT panel the second a panel under the Free Trade Agreement with Canada. There is a legal framework under the GATT that can adjudicate such disputes, and usually enforce the results. Indeed, Article XX of the GATT permits trade restrictions to conserve natural resources. On this trade law has a clear advantage over environmental law.

That is what has led me to call for a "GATT for the Environment." As early as July 25, 1988, I wrote to then-USTR Clayton Yeutter asking that he work to get environmental concerns onto the Uruguay Round Agenda. As might be expected, he considered the agenda already overloaded. And, indeed, I was raising a new subject for which USTR was unprepared. Not because they are not capable of handling such subjects. Just because they had never been asked to do so.

To begin the process of understanding, last November 15 the Finance Committee, at my request, asked the International Trade Commission to undertake a Section 332 investigation of environmental treaties that make use of trade restrictions. There is simply no survey of such agreements existing or details on their implementation. It was at this time that I first urged that we get down to the business of negotiating a "GATT for the Environment."

The importance of the issue has grown, as we have come to better recognize the trade consequences of different national environmental laws. We ought move towards some international harmonization. But again, we have no data on the impact of differences in environmental laws and enforcement between nations on U.S. trade flows. That is why on March 22 we asked the General Accounting Office to begin to consider this problem, and to report to us.

This is a new area of inquiry and we have much to learn. Certainly the United States Trade Representative has to do the same. We will do so together and in cooperation. Since I believe that we must have a GATT for the Environment, and be prepared to negotiate one, I will introduce further legislation to require the USTR and other agencies to pursue this matter. The trade bill that the Finance Committee will consider next year to implement the Uruguay Round results will be an appropriate vehicle.

A new bill need contain at least three elements. First, we ought make it, by statute, an objective of the United States to negotiate in the GATT framework a new agreement to harmonize environmental laws and enforcement. A GATT for the Environment.

Second, legislation is needed to create the data in the U.S. government. Building upon the work of the ITC and GAO, we will institutionalize a mechanism for the collection of information on environmental agreements and domestic environmental laws of our trade partners. A yearly compilation of the enforcement of each agreement and the domestic laws of our trade partners is needed. And we must learn how to quantify the trade impact of these differences.

Third, we need to find both carrots and sticks for developing nations to encourage their the adherence to environmental treaties and stronger domestic laws. Just as the International Labor Organization was begun to assure that nations did not gain a trade advantage through labor exploitation, so to should the GATT begin to assure that no competitive advantage is tolerated by environmental exploitation.

We now look forward to hearing from Senator Lautenberg, who has done so much to raise awareness about this issue during our debate on the Clean Air Act Amendments. His bill, S. 2887, would require that benefits under GSP and CBI only be provided if developing countries have effective environmental laws, and would also make it actionable under Section 301 if a country fails to establish effective environmental laws.

We also will hear from Mr. Don Eiss of the office of the United States Trade Representative. And a panel of witnesses from labor, industry and the environmental community: Mr. William Cunninghan of the AFL-CIO; Mr. William Corcoran of Allied-Signal, and Mr. James Barnes of the Friends of the Earth. We look forward to all of their views.

COMMUNICATIONS

STATEMENT OF THE AMERICAN ASSOCIATION OF EXPORTERS AND IMPORTERS

The American Association of Exporters and Importers (AAEI) is an association of over 1100 U.S. exporters, importers and other companies that provide a spectrum of services essential to international trade. The AAEI is vitally interested in the administration of U.S. laws regulating this country's international commerce, as well as agreements with trading partners affecting international commerce. It also has considerable interest in the topic of this investigation international environmental agreements enforceable through trade sanctions. On behalf of its membership, the AAEI urges cautious and careful consideration of the serious implications of such enforcement mechanisms for the international trading system which the United States has so actively helped to build.

The AAEI agrees wholeheartedly that the United States should work to promote cooperative, international efforts to protect the environment. However, the increasing trend towards enforcing both international agreements and domestic environmental legislation through the imposition of unilateral trade restrictions is ill-advised. Unilateral redress is not only less effective than a cooperative approach, it also severely undermines long-standing American efforts to build and promote an international trading system based upon multilateral agreements. If trade sanctions are ultimately deemed to be an effective way to promote protection of the environment, they should only be applied within the context of a multilateral regime.

I. BACKGROUND: A GROWING NUMBER OF INTERNATIONAL AND DOMESTIC ENVIRONMENTAL PROTECTION PROPOSALS SEEK TO ENFORCE THEIR STANDARDS THROUGH THE IMPOSITION OF UNILATERAL TRADE EMBARGOES

To date, 59 countries have ratified the "Montreal Protocol," a treaty with the laudable goal of limiting the use of chlorofluorocarbons ("CFCs") which contribute to the depletion of the Earth's ozone layer. However, to enforce these nations' views on protecting the atmosphere, the treaty requires signatories to ban *all* imports of CFCs and products containing CFCs from non-signatory countries, even though trade of controlled amounts of CFCs *among* signatories is permitted for the next several years. In other words, although participating countries have determined that use of a limited amount of CFCs is environmentally tolerable, they have nevertheless banned imports of CFCs even *within* that tolerable range solely as a means of coercing non-signatory countries to sign up. The trade restriction is thus not directly tied to environmental protection imperatives, but rather is designed as a stick to impose unilateral goals.

The precedent set by the Montreal Protocol of using trade sanctions to coerce environmental protection subsequently caught the attention of the U.S. Congress, which has since proposed a number of environmental protection measures with trade sanctions enforcement provisions. For example, the Senate-passed Clean Air Act contains an import ban to encourage foreign governments to adopt CFC regulations similar to those of the United States. S. 1630 would prohibit imports of products containing or manufactured with CFCs unless both the manufacturing country and the exporting country are signatories of and in compliance with the Montreal Protocol. Beginning in the year 2000, the Senate bill would extend the CFC import ban to all countries with less stringent CFC regulations than those adopted unilaterally by the United States. Although the Clean Air Act passed by the House does not contain a trade sanctions provision, an unsuccessful but seriously considered amendment introduced by Rep. Bates included an even harsher import ban. It remains to be seen what will come out of conference.

Similarly, the House Committee on Merchant Marine and Fisheries reported out a bill earlier this year that attempts to promote compliance with international fish-

eries conventions through draconian trade sanctions. H.R. 132 would give the President the authority to ban imports *of any product*—not just fish products—from countries found to "diminish the effectiveness" of an international fisheries agreement. There need be no relationship between the products banned and the offense committed. The bill thus completely uncouples the trade regulation from environmental protection standards and uses it purely as punishment.

A final example of this disturbing trend is a bill introduced by Senator Lautenberg, known as the "Global Environmental Protection and Trade Equity Act," S. 2887. This legislation would deny benefits under the Caribbean basin Initiative ("CBI") and the General System of Preferences ("GSP") to any country that "does not have effective natural resource protection and effective pollution abatement and control standards" or if such standards are not observed. Moreover, the bill would make the failure to adopt such standards an unfair trade practice under section 301 of the trade laws, thereby paving the way for presidential retaliation. Like the others, this proposal reflects a unilateral approach to environmental protection, in which the United States becomes the sole arbiter of the level of protection necessary and the sole monitor of compliance.

II. THE NEED FOR A MULTILATERAL APPROACH

It is encouraging to witness the growing global concern for the preservation of our shared environment. The AAEI certainly supports international efforts to devise new and innovative approaches to protect our natural resources. Yet, it is equally important to consider carefully the costs associated with these new approaches, and to weigh alternative, less damaging means of achieving the same goals.

Trade sanctions, at first blush, appear to be an innovative use of U.S. economic power as leverage to gain important environmental concessions. Upon closer scrutiny, however, it becomes clear that trade sanctions would be far less effective than their advocates believe, and would damage vital U.S. interests.

A. Multilateral Development of Environmental Protection Standards Will Yield More Effective Results

Trade sanctions by themselves are a less than effective means of enforcing environmental agreements because they eschew cooperation and coordination for unilateral fiat. The success of international environmental protection measures will hinge upon action at the national level, be it the enactment of domestic legislation or adherence to international agreements. In a world of sovereign states, such action cannot be coerced. The sincere commitment of national governments to both the means and ends expressed in international covenants will be the key to their strength.

Furthermore, because any given environmental threat may be susceptible to more than one possible solution, cooperation between governments to ensure that different approaches are at least consistent with each other will vastly increase the success of national efforts. An example of the potential for counter-productivity when countries act in isolation from each other may be seen in the diverse approaches to bottle recycling. While many U.S. states have focused on breaking down and reprocessing the glass from which the bottles are made, a number of European countries encourage the washing and reuse of individual bottles several times before reprocessing. Thus, Grolsch Beer, a Dutch brewery, produces and distributes bottles with attached, reusable ceramic stoppers that facilitate the European method of recycling. The state of California, however, recently announced its intention to ban the Grolsch bottles because the stoppers impede the glass recycling process it has adopted. The optimal solution to this dilemma is obviously not to force compliance with the American system by punishing European manufacturers. Rather, the parties should work together to devise a compromise approach that can incorporate the needs of all sides. To insist singlemindedly on the American procedure in this case would be counterproductive, resulting in an unnecessary diversion of recycling dollars to accommodate the differences.

Cooperation for its own sake, therefore, is to be desired. It can both reduce inconsistencies and produce better overall solutions, since wider participation means a wider range of perspectives from which to develop a plan of action. Attempts to impose our own solutions unilaterally on the rest of the world through the use of trade sanctions, however, will only serve to alienate those with whom we should be collaborating, and diminish the chances for a cooperative response.

In addition to discouraging cooperation, unilateral trade sanctions become less effective as the United States' own predominance in world trade diminishes. Access to the U.S. market is not as crucial as it once was, and foreign producers can accommodate to U.S. trade barriers or, in a globalized economy, can shift production for

the U.S. from sanctioned to unsanctioned facilities, without changing their production practices. Clearly, therefore, the most effective solutions to the increasing number of global environmental challenges will be developed multilaterally.

B. Multilateral Development of Environmental Protection Standards Will Best Protect Vital U.S. Interests in Preserving a Free and Open International Trade System

Unilateral trade sanctions are not only of questionable effectiveness, they are irresponsible because they harm our own interests far more then they contribute to environmental protection. The United States has invested years of time and effort as the leading international proponent of a multilateral trading system. The General Agreement on Tariffs and Trade (GATT)—the world trade body forged primarily through U.S. leadership—is founded upon the twin principles of multilateralism and liberalized trade. Thanks largely to this open approach, participating nations have prospered and grown. Our continued leadership in support of liberalized multilateral trade is essential if the system is to remain viable.

Trade sanctions of the sort discussed above threaten to undermine these efforts, for a number of reasons. First, they establish a precedent which may come back to haunt us in the future. Article XX of the GATT allows states to enact trade restrictions necessary for certain national health, safety and welfare goals, as long as they are not enacted arbitrarily or discriminatorily. In order to prevent this clause from becoming a gaping loophole in the multilateral trading system, Article XX must be interpreted narrowly. Traditionally, therefore, allowable trade restrictions have been closely tied to the harm caused by the trade in question. For example, when pharmaceutical products fall below U.S. regulatory standards, we may ban their import in order to protect our health. This new brand of environmental trade sanctions, however, breaks that nexus. CFCs which may be imported from country X may not be imported from country Y not because the level of CFCs in the product is unacceptably high but because country Y has not signed the Montreal Protocol. Television sets may not be imported from country Z not because the television sets themselves pose a health or safety threat but because country Z has not sufficiently implemented a fisheries agreement. If we allow the nexus between harm and restriction under Article XX to be broken—even for such a meritorious goal as environmental protection—the precedent could unleash a whole host of similar Article XX exceptions which could combine to threaten the viability of the multilateral trading system itself.

Second, U.S. support for trade sanctions as environmental enforcement weakens the multilateral trading system because it severely undermines our credibility as an advocate of liberalized trade. Unilateral trade sanctions may well be a violation of the GATT. No GATT provision explicitly allows for such sanctions. And, as noted above, interpreting Article XX so expansively as to cover the use of trade restrictions as punishment for unrelated offenses would set a dangerous precedent for American exporters. Moreover, unilateral trade sanctions blatantly violate the GATT principles of multilateralism and nondiscrimination. In an era in which the pressure of unilateral protectionism is testing the limits of the international trade system, the United States should be working actively to shore up the GATT. Yet if the U.S. insists upon an approach antithetical to the GATT's founding principles we will signal a new disregard for the system we helped to build. Once the commitment of the United States—traditionally the most ardent GATT advocate—is perceived to be waning, prospects for GATT's continued vitality will severely diminish. Our leadership on behalf of liberalized and open trade is critical. No other country is waiting on the sidelines to take over that role. In order to sustain that leadership, we must maintain our credibility and reject unilateralism.

Our unwavering support of multilateralism is particularly important in light of our goals for the currently ongoing Uruguay Round of trade talks in Geneva. The United States has strenuously maintained that the Uruguay Round should produce both a broader and deeper framework for open international trade. The U.S. is asking participating governments not only to refrain from enacting new measures restraining trade, but to make politically painful cuts in existing programs that have the effect of obstructing international commerce. U.S. support for the use of unilateral trade sanctions as a means of environmental enforcement is particularly damaging to the U.S. negotiating position in this respect because it introduces a new form of trade restraint. It will be difficult to convince our trading partners to dismantle existing barriers when we are simultaneously erecting new ones of our own. As President Bush's personal efforts at the recent Houston economic summit to unblock the GATT logjam on agriculture indicate, a successful GATT round is a vital national interest. We should not inadvertently undermine that interest by

hastily adopting environmental protection policies that unnecessarily debilitate the multilateral international trade system.

Finally, unilateral trade sanctions would invite retaliation. Countries singled out for import bans would feel compelled to register their objection by enacting parallel bans on U.S. exports—bans that would be designed to inflict maximum economic injury on our domestic industries. Such retaliation could provoke counterretaliation, escalating into a bilateral trade war which the U.S. can ill-afford.

The danger of retaliation was clearly demonstrated in the fallout over the European Community's decision to ban the import of hormone-treated beef. In 1989 the Community introduced a total ban on beef treated with growth hormones, purportedly for health reasons. Well-intentioned or not, the Europeans' actions provoked a sharp U.S. response, as the President imposed 100 percent tariffs on E.C. exports of canned tomatoes and instant coffee. The U.S. reaction in turn led to a threat of further retaliation by the Community. The incident demonstrates the potential for unproductive tit-for-tat trade restrictions that can be triggered by the use of import bans, no matter how worthy the cause for their deployment may be. We ignore at our peril the dangers to the multilateral trading system posed by such a series of trade restrictions triggered by the use of unilateral import bans to enforce environmental protection standards.

III. CONCLUSION: TOWARD A MULTILATERAL APPROACH TO ENVIRONMENTAL PROTECTION

Internationally and domestically, the use of unilateral trade restrictions to achieve environmental objectives is attracting increasing interest. AAEI believes the time has come to subject this device to critical scrutiny and to determine whether it really is the wisest option available. Such scrutiny will reveal the grave folly in following this course of action.

Imposing our own standards for environmental protection on the rest of the world is not only arrogant, it is counterproductive. It discourages cooperation and forecloses experimentation. Moreover, trade sanctions may prove more damaging to U.S. producers facing increased costs for their inputs, and to U.S. exporters confronting possible foreign retaliation, than to the foreign producers against whom they are aimed.

If the ineffectiveness of trade sanctions were the only argument against them, however, they may nevertheless be worth a try given the depth of the environmental challenges that face us. Yet trade sanctions are far from benign. They will cause severe damage to our vital interest in—and complete economic dependence on—a healthy, multilateral trade system. These costs will be far-reaching. Responsible policymaking demands that they be fully and carefully considered in any decision to adopt such a seemingly easy enforcement mechanism.

AAEI believes a far more appropriate response to the desire to bring international commerce to the assistance of our efforts to improve protection of the environment would be to seek new multilateral rules governing the use of trade restrictions to enforce environmental standards. The U.S. should call for a round of international discussions—with the GATT, the OECD and other appropriate international organizations—and lead the way in developing a consensus about the permissible uses and appropriate limits of linking trade and environmental issues. In so doing, the U.S. should consider the ramifications of such rules should they be used against U.S. business, given the fact that the U.S. is in some respects the world's greatest polluter. AAEI believes the U.S. should engage our trading partners in a cooperative effort to devise solutions everyone can abide by in good faith. By pursuing a multilateral strategy, the U.S. can most effectively protect our fragile environment, while at the same time avoid damage to the world trading system that is so important to our future.

STATEMENT OF THE U.S. ENVIRONMENTAL PROTECTION AGENCY

The U.S. Environmental Protection Agency (EPA) appreciates the opportunity to submit a statement for the record on S. 2887, the bill recently introduced by Senator Lautenberg to amend the Caribbean Basin Economic Recovery Act, the Generalized System of Preferences, and Section 301 of the Trade Act of 1974 concerning foreign environmental policies.

EPA applauds the subcommittee for its efforts to begin to address the very important issue of the impact of environmental regulation on international trade and American competitiveness in world markets. There is an increasing recognition within with the U.S. government that the interaction of trade and environment policies is of great significance. EPA is engaged with the U.S. Trade Representa-

tive's Office (USTR) Department of Commerce and other agencies in developing an Administration position on the issues posed by the interconnection of trade matters and environmental protection.

On the international front, the Administration is pursuing these issues through the Organization for Economic Cooperation and Development (OECD) and other multilateral venues. Our goal is to ensure that America's desire for strong environmental protection domestically and internationally be consistent with economic well-being both at home and abroad.

With the growing importance of environmental issues, we are increasingly assessing the trade consequences of domestic environmental laws. EPA wants to ensure that U.S. industry is not uniquely burdened with the costs of vigorous environmental protection. The Agency recognizes that our nation's capacity for greater environmental protection depends on a strong economy which, in turn, depends on the ability of our companies to sell their products in highly competitive global markets. EPA is committed to taking into account the competitive position of American industry while promoting environmental protection; and seeking an appropriate balance between these two objectives.

We believe S. 2887 moves us in the wrong direction. Rather than focusing on the relative regulatory burden and competitiveness effects of the environmental programs of all our world trade competitors, the bill focuses almost exclusively on developing countries. Rather than seeking to build international support for global environmental standards, the bill proposes to impose unilaterally United States standards. Rather than raising environmental standards around the world, the legislation threatens to choke off the economic development that is needed if developing countries are to have resources available for investments in environmental protection. In brief, S. 2887 offers a punitive and negative, rather than a constructive and positive, approach to the issue of trade and the environment.

Moving the developing world toward the levels of environmental protection we in the United States have achieved is an important goal. We think, however, that cutting a developing country's export revenues through punitive trade measures is the wrong way to pursue this end. Restricting access to the U.S. market or denying a developing country trade benefits will reduce, rather than increase, the chances that these countries will be able to improve their environmental records.

EPA agrees with USTR's conclusion in Mr. Eiss' July 30 testimony that it would be counter-productive to use statutes designed to promote economic development to impose U.S.-determined environmental standards on countries which are in the process of developing regulatory and environmental infrastructures. A punitive approach could severely limit economic growth in our Caribbean neighbors and other developing nations, slowing progress in achieving higher levels of environmental protection. EPA believes that a constructive, forward-looking approach to environmental aspects of global competitiveness avoids this unintended consequence. By raising the environmental sights of the developed world first and by creating the economic opportunities' needed to fund investments in environmental protection, the United States will be helping to protect our shared world environment. Moreover, by pushing others to raise their standards we will open up new export markets for U.S. pollution control technologies, products, and services.

Setting unilateral environment standards as a baseline for maintaining free trade could have adverse consequences. With regard to developing countries, it is not at all clear that U.S. environmental standards would be appropriate. As noted above, economic circumstances are a critical factor in determining how quickly and how far a country can go in adopting rigorous environmental laws.

With regard to our developed world trade competitors, there are a number of instances where their pollution control requirements exceed our own. Indeed many developing nations and east European nations have environmental laws that are very strict on paper, but which are not enforced. Determining which of these are "effective" or "observed" is highly subjective and could create international discord. Moreover, if we seek to impose our environmental standards on other countries, then other countries may seek to do the same with us, potentially subjecting the United States to unilateral trade sanctions or other market access restrictions that these other nations choose to impose. This kind of trade war could defeat, not enhance, environmental and economic goals.

The Administration is pushing for international efforts to address these issues, particularly through organizations such as the OECD. At the OECD, for example, we have already made significant strides in establishing common developed country standards for the handling of industrial chemicals and hazardous wastes. These efforts, which build on technical exchanges as well as the negotiation of common standards, reflect the growing recognition that business activities and related envi-

ronmental problems are now global in nature. To be effective, responses to these problems must be comprehensive and internationally-derived.

We anticipate making further progress on international standards at the OECD Environment Ministers Meeting scheduled for January 1991. Under the theme of "Integration of Environmental and Economic Decision-Making," coordinated approaches to environmental regulation will be a central topic of discussion. The United States has urged that the trade and environment issue in particular have a prominent place on the meeting agenda.

While much more remains to be done before comprehensive international environmental standards are ready for adoption, the work of the OECD offers a valuable starting point—a promising avenue for real progress in improving environmental protection around the world and eliminating competitive advantages based on inadequate standards. EPA believes that the unilateral approach of S. 2887 could undercut this important initiative and other multilateral efforts in which the United States is now participating.

In sum, the issues raised by S. 2887 are important to the development of sound trade and environment policies but call for a different approach. The Administration will continue to work to ensure that U.S. competitiveness is preserved as we push for advances in environmental protection both at home and abroad. We look forward to an ongoing dialogue with this subcommittee on the many complex issues raised by the interplay of environmental regulation and trade.

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